

# EMERGENCY FACESHEET

88-0523-01E

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

RDB# 0388-16

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

**FILED**  
In this office of the Secretary of State  
of the State of California

State Department of Social Services

(AGENCY)

*John S. McNeil*

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: May 23, 1988

JUN 01 1988

At 4:30 o'clock P.M.

MARCH FONG EU, Secretary of State

By *John S. McNeil*  
Deputy Secretary of State

For use by Secretary of State only

OFFICE OF  
ADMINISTRATIVE LAW

ENDORSED

APPROVED FOR FILING

JUN 01 1988

Office of Administrative Law

For use of Office of Adm Law

1. AGENCY CONTACT PERSON FOR THIS FILING  
(See instructions)
2. Type of filing, (check one)  
☐ 30-day Review  
☒ Emergency  
☐ Certificate of Compliance (Complete Part 4 below)  
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)  
☐ Nonsubstantive changes with nonregulatory effect  
☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:  
Title MPP  
SECTIONS ADOPTED: 63-078  
SECTIONS AMENDED: 63-102(g) (1), (h) (1) and (t), 63-301.51; 63-402.14; 63-502.141;  
63-502.2(b) and (k); 63-801.323  
SECTIONS REPEALED:  
b. The following sections listed in 3a contain modifications to the text originally made available to the public:
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)  
☐ prior to the emergency adoption  
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?  
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?  
☒ No ☐ Yes, if yes, give date statement was submitted to OAL
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)  
☐ Fair Political Practices Commission (Include FPPC approval stamp)  
☐ State Fire Marshall (Attach approval)  
☐ Other \_\_\_\_\_ (SPECIFY AGENCY)  
☐ Building Standards Commission (Attach approval)  
☒ Department of Finance (Attach properly signed Std. 399)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER  
N/A  
b. DATE OF FINAL AGENCY ACTION  
May 23, 1988  
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))  
N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)  
a. ☐ Effective 30th day after filing with the Secretary of State.  
b. ☐ Effective upon filing with the Secretary of State.  
c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s):  
d. ☒ Effective on June 1, 1988 Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.  
e. ☐ Effective on \_\_\_\_\_ Designate effective date *later than* the normal effective date for the type of order filed.)

# INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
- b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
- c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
- b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
- c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
- d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
- e. If an effective date later than specified above is requested, provide the date.

## FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director

Adopt Section 63-078 to read:

63-078      IMPLEMENTATION OF MCKINNEY HOMELESS ASSISTANCE      63-078  
REGULATIONS (P.L. 100-77) AND SENIOR COMMUNITY  
SERVICE EMPLOYMENT PROGRAM REGULATIONS (P.L. 100-175)

- .1    Sections 63-078, 102(q) and (h), 301.51, 402.14, 502.141, 502.2(b), 502.2(k)(5), 504.11, and 801.32, as amended herein, shall become effective June 1, 1988.
- .2    These amended or adopted provisions in Section 63-078 shall be implemented as follows:
- .21    The provisions in Section 63-102(q) which defines "General Assistance," the provisions contained in Sections 63-502.141, 502.2(b)(2)(A), (B), and (C) regarding exclusion of certain PA/GA vendor payments and the provision in Section 63-502.2(b)(3) regarding exclusion of emergency/special PA/GA vendor payments are effective retroactive to April 1, 1987. Affected households shall be entitled to restored benefits back to the date of application or April 1, 1987, whichever occurred later.
- .22    Section 63-502.2(b)(2)(D), the income exclusion of certain PA/GA vendor payments shall be implemented for new applicants which apply for benefits beginning June 1, 1988 and ending September 30, 1989. For continuing cases, this provision is effective retroactively only for allotments issued on or after October 20, 1987. CWDs shall implement the required program changes for their affected current caseload, if otherwise eligible, at recertification, when the household requests a review of its case, or when the CWD otherwise becomes aware that a review is needed.
- .23    Sections 63-402.142(b), .145(b), and <sup>504.112</sup>~~504.11~~, (the exception to certain household composition requirements and the rule regarding recertification of households subject to the exception) shall be implemented on June 1, 1988. Households which apply for benefits on or after the date this provision is implemented shall be granted separate household status under this provision. Current participants and other persons previously denied benefits which are eligible for separate household status under this provision shall be granted separate household status retroactive to October 1, 1987 as appropriate. Affected households are entitled to

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restored benefits back to the date of application or October 1, 1987, whichever occurred later. This determination shall be made upon request from the household, at recertification or when the CWD otherwise becomes aware that a review is needed.

.24 Sections 63-102(h), the definition of homeless individual, 301.51, the expansion of expedited service, and 801.32, the earned income deduction penalty, are to be implemented on June 1, 1988.

.25 Section 63-502(k)(5), the income exclusion of funds received by individuals aged 55 and over provided by the Senior Community Service Employment Program (SCSEP) under Title V of the Older American Act (as amended by Public Law 100-175) shall be implemented as follows:

.251 Beginning June 1, 1988 the CWDs shall implement the adopted provision for all new food stamp applications.

.252 For continuing cases and any other affected households, this provision shall be implemented upon request of the household, at recertification, or when the CWD becomes aware that a review is needed, whichever occurs first. Restored benefits to entitled households are to be provided back to the date of application or October 1, 1987, whichever occurred later.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code; ~~Title V, Older Americans Act~~ as amended by Public Law 100-175; and 7 CFR 273.1(g)(93) and 7 CFR 273.9(c)(10).

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42 USC 3056g

Amend Sections 63-102(g) and (h) to read:

63-102 DEFINITIONS (Continued)

63-102

g. (1) "General Assistance (GA)" means cash or another form of assistance, which is excluding in-kind assistance, financed by State or county funds as part of a program which provides assistance to cover living expenses or other basic needs intended to promote the health or well-being of recipients.

(2) (Continued)

h. (1) "Homeless food stamp household individual" means an eligible food stamp household which has no fixed mailing address or does not reside in a permanent dwelling individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

(a) A supervised shelter designed to provide temporary accommodations (such as a congregate shelter or a welfare hotel where an individual is referred by the CWD);

(b) A halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;

(c) A temporary accommodation in the residence of another individual; or

(d) A place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (e.g., a hallway, a bus station, a lobby or similar places).

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code; and 7 CFR 271.2.

Amend Section 63-102(t) to read:

63-102 DEFINITIONS (Continued)

63-102

t. (1) "Temporary housing" for the purposes of determining if PA or GA/GR vendor payments for housing assistance should be excluded as income means time limited residency in a place which lacks the facilities for the preparation and cooking of hot meals or the refrigerated storage of food for home consumption. Whether the residency is time limited will be determined by the household's statement that their housing situation is temporary, or by the fact that a time limit has been imposed by the CWD or by the housing unit.

(12) (Continued)

(23) (Continued)

(34) (Continued)

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code; and 7 CFR 273.9(c)(1)(ii)(D).

Amend Section 63-301.51 to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

.5 Expedited Service (Continued)

.51 Entitlement to Expedited Service

The following households, if otherwise eligible, are entitled to expedited service provided their liquid resources as defined in Section 63-501.11 do not exceed \$100:

.511 Households with less than \$150 in monthly gross income as defined in Section 63-502.1 or provided their liquid resources as defined in Section 63-501.11 do not exceed \$100:

.512 Migrant or seasonal farmworker households who are destitute as defined in Section 63-503.43 provided their liquid resources as defined in Section 63-501.11 do not exceed \$100:

.513 Households in which all members are "homeless individuals" as defined in Section 63-102(h); or

.514 Households whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage, and utilities.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code and 7 CFR 273.2(i)(1)(iii and iv).

Amend Section 63-402.14 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.1 Household Definition (Continued)

.11 (Continued)

.12 (Continued)

.13 (Continued)

.14 ~~In no event shall~~ Separate household status shall not  
be granted to:

.141 Children under 18 years of age living with a  
member of the household who has parental control,  
as defined in Section 63-102(p);

~~.141~~ Parents living with their natural, adopted or step  
.142 children, or children living with their natural,  
adopted, or stepparents unless:

(a) at least one parent is elderly or disabled  
as defined in Section 63-102(e); or

(b) the natural, adopted or stepchild is a  
parent of a minor child(ren). The parent of  
the minor child(ren), together with such  
child(ren), shall be granted separate  
household status, if he/she is purchasing  
food and preparing meals for home  
consumption separate from his/her  
parents(s). The parent with the minor  
child(ren) shall be assigned a six-month  
certification period as specified in  
Section 63-504.11. The grandparents shall  
be considered a separate household, if  
otherwise eligible, even if the parent and  
minor child(ren) do not participate.

.143 (Continued)

.144 (Continued)

.145 Siblings living with their natural, adopted  
half- or step brothers and/or sisters, except:

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- (a) any sibling who is elderly or disabled, as defined in Section 63-102(e), or:
- (b) any sibling who is the parent of a minor child(ren). The sibling who is the parent of the minor child(ren), together with such child(ren), shall be granted separate household status, if he/she is purchasing food and preparing meals for home consumption separate from his/her sibling(s). The sibling with a minor child(ren) shall be assigned a six-month certification period as specified in Section 63-504.11. The sibling(s) without a minor child(ren) shall be considered a separate household, if otherwise eligible, even if the sibling and the minor child(ren) do not participate.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code and 7 CFR 273.1(a)(2)(i)(c and d).

Amend Section 63-502.141 to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.14 Unearned income shall include but not be limited to:

.141 Assistance payments from federal or federally aided public assistance programs, Aid to Families with Dependent Children (AFDC), General Assistance (GA), or other assistance programs based on need except as provided in Section 63-502.1311.

(a) Such assistance is considered to be unearned income even if provided in the form of a vendor payment (provided to a third party on behalf of the household), unless the vendor payment is specifically exempt from consideration as countable income as specified in Section 63-502.2.

(ab) (Continued)

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code and 7 CFR 273.9(b)(2)(i).

Amend Sections 63-502.2(b) and (k) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

•2 Income Exclusions (Continued)

(a) (Continued)

(b) (Continued)

(1) (Continued)

(2) A PA or GA payment shall be considered an  
excludable vendor payment and not counted as  
income to the household if such PA or GA payment  
is for:

(A) Medical assistance;

(B) Child care assistance;

(C) Energy assistance [as defined in Section  
63-501.3(k)(7)]; or

(D) Housing assistance payments made to a third  
party on behalf of a household residing in  
temporary housing (as defined in Section  
63-102(t)), if the temporary housing unit  
provided for the household as a result of  
such assistance lacks facilities for the  
preparation and cooking of hot meals or the  
refrigerated storage of food for home  
consumption, provided that such vendor  
payments shall be excluded under this  
provision if paid to the housing provider  
during the period beginning October 20,  
1987 and ending September 30, 1989.

(23) (Continued)

(34) (Continued)

(c) through (j) (Continued)

(k) Any income that is specifically excluded by any other federal statute from consideration as income for the purpose of determining eligibility for the Food Stamp Program. The following is the current listing of income excluded by federal statute:



(k) Any income that is specifically excluded by any other federal statute from consideration as income for the purpose of determining eligibility for the Food Stamp Program. The following is the current listing of income excluded by federal statute:

(1) (Continued)

(2) (Continued)

(3) (Continued)

(4) (Continued)

(5) Funds received by individuals age 55 and over provided by the Senior Community Service Employment Program (SCSEP) under Title V of the Older Americans Act (as amended by Public Law 100-175).

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code; ~~Title V, Older Americans Act~~ (as amended by Public Law 100-175); and 7 CFR 273.9(c)(1)(ii)(A-D) and 7 CFR 273.9(c)(10).

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6/1/88

42 USC 3056g

Amend Section 63-504.11 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY 63-504  
(Continued)

.1 Certification Periods (Continued)

.11 General Requirements for Establishing Certification  
Periods (Continued)

.111 Certification periods shall conform to calendar or fiscal months, except that for initial applications where benefits are prorated, the beginning date of the certification period shall be the date the application was filed in the appropriate food stamp office. At initial application, the first month in the certification period shall generally be the month of application, even if the household's eligibility is not determined until a subsequent month. For timely reapplications and recertifications, the certification period shall begin with the month following the last month of the previous certification period.

.112 Households which are granted separate household status, in accordance with Sections 63-402.142(b) and .145(b), because the household consists of an individual and that individual's minor child(ren) living with the individual's parent or sibling and purchasing and preparing meals separately from the parent/sibling shall be assigned a certification period not to exceed six months. This six-month certification requirement applies only to those households that consist of an individual and that individual's minor child(ren).

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code and 7 CFR 273.10(f)(2).

Amend Section 63-801.323 to read:

63-801 CLAIMS AGAINST HOUSEHOLDS (Continued)

63-801

.3 Intentional Program Violation Claims (Continued)

.323 When determining the amount of benefits the household should have received, the CWD shall not apply the 20 percent earned income deduction to that portion of earned income which the household intentionally failed to report as proven by an administrative disqualification hearing or a court of appropriate jurisdiction. This provision shall not apply to persons who have signed the Waiver of Right to an Administrative Disqualification Hearing or Disqualification Consent Agreement.

.3234 (Continued)

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

References: Sections 18901 and 18902, Welfare and Institutions Code and 7 CFR 273.18(c)(2)(ii).

# OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

**FILED**  
In this office of the Secretary of State  
of the State of California

JUN 01 1988  
At 4:30 o'clock P M.  
MARCH FONG EU, Secretary of State  
By [Signature]  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

**Submitting Agency:** Department of Social Services

**OAL File No:** 88-0523-01

[Signature]  
for **LINDA STOCKDALE BREWER**  
**DIRECTOR**

6/1/88  
Date

1988 MAY 20 PM 3:51

OFFICE OF  
ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING

JUN 02 1988

Office of Administrative Law

For use of Office of Adm Law

**FACE SHEET**  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)

*L. L. S. Michael*

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

5/18/88

RDB #1287-58

**FILED**

In this office of the Secretary of State  
of the State of California

JUN 02 1988

At 3:50 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Debra Biles*  
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)  
TITLE: Rosalie Clark, Chief, Regulations Development Bureau  
TELEPHONE: 445-0315
2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance (Complete Part 4 below)  
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)  
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SECTIONS AMENDED: 44-111.436, .437 and .438  
SECTIONS REPEALED: 44-111.435  
b. The following sections listed in 3a contain modifications to the text originally made available to the public: 40-002, 44-111.436, .437 and .438
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- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
  - b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
  - c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
  - d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
  - e. If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

## CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code


The Department of Social Services hereby certifies that it has complied with the provisions of Section 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on January 22, 1988, and which became effective on January 22, 1988.

Manual of Policies and Procedures, Divisions 40 and 44,  
Chapter(s) 40-000 and 44-100 Sections:

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
	40-002	44-111.435
	44-111.435	
	(Handbook)	

These regulations were presented at public hearing on April 20, 1988. As a result of the public hearing the following sections have been changed.

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
40-002		44-111.435
44-111.436		(Handbook)
44-111.439		
44-111.438		

  
\_\_\_\_\_  
LINDA S. McMAHON  
Director

5/18/88  
Date

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director



Adopt Chapter Title and Section 40-002 to read:

CHAPTER 40-000 IMPLEMENTATION SCHEDULE

40-000

40-002 IMPLEMENTATION OF EXEMPT STUDENT LOANS

40-002

The repeal of MPP Section 44-111.435 is effective January 292, 1988, and that regulation has been invalid since January 1, 1988 because it conflicts with Welfare and Institutions Code Section 11250.8 (see Handbook Section 44-111.435). Counties shall identify cases which receive educational loans/grants on or after January 1, 1988 and shall redetermine the grant, as necessary.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, and 11250.8 (Chapter 957, Statutes of 1987), Welfare and Institutions Code; and Section 11342.2, Government Code.

Repeal Section 44-111.435 and renumber .436, .437 and .438 to .435, .436 and .437 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111  
AS INCOME (Continued)

.4 Exclusions or Exemptions of Other Payments and Income  
(Continued)

.43 Loans and Grants (Continued)

.435 In the instance where a recipient receives more than one educational loan or grant, the recipient's educational expenses will first be applied to the totally exempt loans or grants such as those administered by the Federal Secretary of Education (see Section .432 above).

Any remaining educational expenses will then be applied to those loans or grants that do not contain conditions precluding their use for current living costs.

.436 (Continued)

.437 (Continued)

.438 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554 and 11250.8 (Chapter 957, Statutes of 1987), Welfare and Institutions Code and Section 11342.2, Government Code.

# OFFICE OF ADMINISTRATIVE LAW

# CERTIFICATION OF

# DISAPPROVAL

FILED  
in the Office of the Secretary of State  
of the State of California

JUN 02 1988

At 4:35 o'clock P.M.

MARCH BONG EU, Secretary of State

Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and disapproved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-0520-02

  
\_\_\_\_\_  
LINDA HURDLE STOCKDALE BREWER  
DIRECTOR

6/2/88  
Date

## FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

RDB# 1287-59

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

**FILED**  
In this office of the Secretary of State  
of the State of California

1988 MAY 18 PM 4:50

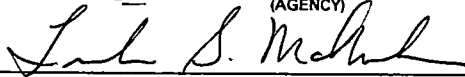
OFFICE OF  
ADMINISTRATIVE LAWENDORSED  
APPROVED FOR FILING

JUN 16 1988

Office of Administrative Law

State Department of Social Services

(AGENCY)



AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 5/16/88

JUN 16 1988

At 4:15 o'clock P.M.

MARCH FONG EU, Secretary of State

By   
Deputy Secretary of State

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE  
Rosalie Clark, Chief, Regulations Development Bureau 445-0313
2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance (Complete Part 4 below)  
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)  
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:  
Title MPP  
SECTIONS ADOPTED: 50-016 et seq.  
SECTIONS AMENDED: Section 50-016.1, 212, 215 and 612  
SECTIONS REPEALED: \_\_\_\_\_  
b. The following sections listed in 3a contain modifications to the text originally made available to the public: NONE
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)  
☐ prior to the emergency adoption  
☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?  
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: \_\_\_\_\_
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?  
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: \_\_\_\_\_
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)  
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)  
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)  
☐ Other \_\_\_\_\_ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER January 29, 1988 b. DATE OF FINAL AGENCY ACTION MAY 17 1988 c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) Not Applicable
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)  
a. ☐ Effective 30th day after filing with the Secretary of State.  
b. ☒ Effective upon filing with the Secretary of State.  
c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_  
d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.  
e. ☐ Effective on \_\_\_\_\_ (Designate effective date *later than* the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
  - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
  - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
  - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
  - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
  - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
  - If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "L. S. McMahon".

LINDA S. MCMAHON  
Director

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Section 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on February 1, 1988, and which became effective on February 1, 1988.

Manual of Policies and Procedures, Division 50, Chapter(s) 016, Sections:

Amended

Adopted

Repealed

50-016.1 through .8

These regulations were presented at public hearing on March 16, 1988. As a result of the public hearing the following sections have been changed.

Amended

Adopted

Repealed

No Modifications Made



LINDA S. McMAHON  
Director

5/16/88

Date

Amend Sections 50-016.1, .212, .215, and .612 to read:

50-016 VAESSEN V. WOODS RETROACTIVE COURT CASE

50-016

HANDBOOK

.1 Background

The Vaessen v. Woods lawsuit challenged the authority of the State Department of Social Services (SDSS), to count income tax refunds as income available to meet current needs rather than as resources. On April 5, 1984, the California Supreme Court ordered SDSS and county welfare departments (CWDs) to treat income tax refunds as resources rather than earned income in grant determination. The final judgement ordered SDSS to provide retroactive benefits and interest to class members. On September 17, 1987 the final order was signed and the provisions of that order are set forth in the following regulations.

.2 Definitions

.21 For the purpose of these regulations:

- .211 "Claim Form" means that portion of the SDSS designed Informing/Claiming Notices (Temp 1706 and Temp 1706A) which must be completed, signed, and returned to the appropriate CWD for determination of a claimant's eligibility for retroactive benefits.
- .212 "Class Members" are individuals otherwise cash aid eligible who received an income tax refund and as a result had their cash aid reduced, denied or terminated during the retroactive period.
- .213 "Good Cause" means those situations when a claimant is suffering from a mental or physical condition which prevents the timely completion and return of form(s) or when a claimant's failure to submit a timely and complete form(s) is directly attributable to county error or when the county finds other extenuating circumstances which prevent the timely completion and return of a form(s).
- .214 "Release of Tax Information Form" means the SDSS designed forms (Temp 1706C and Temp 1706D), signed by the claimant to give permission for the CWD to secure claim verification information from the



Internal Revenue Service (IRS), and/or the Franchise Tax Board (FTB).

.215 "Retroactive ~~p~~Period" means the period of time between January 1, 1979 through March 31, 1980 and/or May 1, 1982 through August 31, 1982.

.216 "Supplemental Claim Form" (Temp 1706B) means the SDSS designed claiming document which is to be filled out by the claimant, and used when the claimant's case record is not available or the information contained in the claimant's case record is not sufficient to permit the determination of eligibility for retroactive benefits.

**.3 Informing Potentially Eligible Persons of the Availability of Retroactive Benefits**

.31 In order to notify potentially eligible persons SDSS shall:

.311 On or before March 1, 1988, send by first class mail an Informing/Claiming Notice (Temp 1706), printed in both English and Spanish, to all AFDC recipients who received an income tax refund in the periods January 1979 through March 1980 and/or May 1982 through August 1982.

.312 Issue posters (Temp 1706E) printed in both English and Spanish informing the general public of the availability of benefits.

.313 Provide CWDs with reproducible copies in English and Spanish of the Informing/Claiming Notice (Temp 1706A), the Supplemental Claim Form (Temp 1706B), and the FTB and IRS Release of Tax Information Forms (Temp 1706C and Temp 1706D).

**.32 County Responsibilities**

.321 All counties shall post English and Spanish informing posters supplied by SDSS in conspicuous locations in all CWD offices from March 1, 1988 through May 31, 1988.

.322 All counties shall reproduce a supply of the Informing/Claiming Notice (Temp 1706A), and shall give or mail such notices to anyone upon request.

HANDBOOK

- .323 If more than one CWD is listed on the Claim Form (Temp 1706) or on the Release of Tax Information Form (Temp 1706C), the CWD shall photocopy and forward within 15 working days all claiming documents to each CWD listed.

#### .4 Application for Retroactive Benefits

##### .41 Claimant Responsibilities:

- .411 The claimant shall complete and sign under the penalty of perjury the Informing/Claiming Notice (Temp 1706 or Temp 1706A).

- (a) The Informing/Claiming Notice shall be considered complete when the claimant has provided a response to all the questions, and has provided a name, address, and social security number (SSN) or indication that claimant has no SSN.

- .412 If sufficient claim verification information is not available in the case file, the claimant shall complete and sign under the penalty of perjury the Supplemental Claim Form (Temp 1706B) and the Release of Tax Information Forms for FTB and/or IRS (Temp 1706C and Temp 1706D).

- (a) The Supplemental Claim Form shall be considered complete when the claimant has provided a response to the required questions including the time period in which the income tax refund was received, the address where aid was received, and the number of people in the assistance unit.

- .413 The claimant shall submit a claim form (Temp 1706 or Temp 1706A) to the CWD in the county from which AFDC cash aid was received or was denied/discontinued during the time period(s) for which retroactive benefits are being claimed.

- .414 The claim form (Temp 1706 or Temp 1706A) shall be submitted by May 31, 1988.

- (a) Unless the evidence indicates otherwise, the date the claim form is submitted shall be determined as follows:

- (1) The postmark date of the envelope when the claim is mailed to the CWD; or
- (2) The date stamped on the claim form by the CWD when the claim is delivered in person to the CWD; or
- (3) The date the claim form was signed by the claimant, when the date cannot be determined by either Sections 50-016.414(a)(1) or (2).

#### .42 CWD Responsibilities

- .421 The CWD shall stamp each claim form (Temp 1706 or Temp 1706A) with the date the form was received and shall retain all envelopes that were postmarked after May 31, 1988.
- .422 Claims submitted after the date specified in Section 50-016.414 shall be denied.
- .423 The CWD shall attempt to locate a case record for the claimant.
- .424 The CWD shall personally verify all signatures on the Release of Tax Information Forms (Temp 1706C and/or Temp 1706D), by comparing the signature on the form(s) to a signature on a valid driver's license, identification card from the Department of Motor Vehicles, or a signed social security card, except as provided in Section 50-016.513(a).

#### .5 Claim(s) Processing

- .51 The CWD shall review each claim form (Temp 1706 or Temp 1706A), to determine whether claimant may be a member of the class and whether claimant has provided a complete claim form pursuant to Section 50-016.411(a).
  - .511 If the claimant answered no to any of the questions on the Informing/Claiming Notice (Temp 1706A), the claimant is not a member of the class and the CWD shall deny the claim without further review.
  - .512 The CWD shall review the Claim Form (Temp 1706 and Temp 1706A), and request further information or clarification if the form is incomplete or the

information is internally inconsistent. If the requested information is not returned to the CWD within 30 days of the date mailed to the claimant, the claim shall be denied.

- .513 In the event the case record cannot be located or the information contained in the case record is insufficient to confirm or deny class membership as defined in Section 50-016.212, the CWD shall mail Release of Tax Information Forms (Temp 1706C and/or Temp 1706D), and a Supplemental Claim Form (Temp 1706B) to the claimant.

- (a) When a Release of Tax Information Form(s) (Temp 1706C and/or Temp 1706D), is required, the claimant shall provide to the county for signature verification a valid driver's license, identification card from the Department of Motor Vehicles, or a social security card which has been signed by that claimant. In the event that a verifiable signature cannot be presented in person, then a readable photocopy of the aforementioned identification may be submitted along with the Release of Tax Information Forms for review by the appropriate CWD.

- .514 If the Release of Tax Information Form(s) (Temp 1706C and/or Temp 1706D), and the signature verification, and/or the Supplemental Claim Form (Temp 1706B) are not completed and returned to the CWD within 30 days of the date mailed to the claimant without good cause, the claim shall be denied.

- (a) If one or more of the forms mentioned in Section 50-016.514 is returned without the other required forms, the CWD shall send a Notice of Action (NOA) to the claimant informing him/her that he/she must return all the missing forms within 15 days or be denied.

- (b) If the claimant fails to return one or more of the forms mentioned in Section 50-016.514 with good cause, the claimant will be permitted up to an additional 15 days to return the documents from the date the CWD determines that good cause exists.

(c) The date the Release of Tax Information Form (Temp 1706C and Temp 1706D) and the Supplemental Claim Form (Temp 17063) are returned to the CWD is the date of the postmark when mailed, or the date of receipt by the CWD when hand-delivered.

- .515 Claimants may be requested to supply documentation where such documentation is actually in the claimant's possession. Where claimants do not have documentation in their possession they may be asked to sign a Release of Information Form (ABCDM 229), enabling the county to obtain information on their behalf. A claim will not be denied if the claimant fails to provide documentation in his/her possession or sign the Release of Information Form.
- .516 Where the case file contains insufficient information to verify a claim, the Release of Tax Information Forms (Temp 1706C and Temp 1706D) shall be mailed to the IRS and/or the FTB to obtain claim verification information.
- .517 If the CWD determines that the claimant is not a member of the class, the CWD shall send an NOA and deny the claim. The CWD shall review all existing records and shall deny the claim if no record can be found that the claimant applied for or received cash aid. This provision applies only when the CWD can certify that a listing of cash aid cases (such as the AFDC payroll or warrant register) was retained in addition to cash aid case records for the time period claimed. In addition, this provision can be applied to claimants who were denied cash aid only when the CWD can certify that existing cash aid case records include all denials.
- .52 If a CWD receives a claim for any period in which the CWD can determine that the form has been submitted to the wrong county, the CWD shall:
  - .521 Forward within 15 working days from the date of receipt, the claim form (Temp 1706 or Temp 1706A) or a copy thereof to the correct CWD with a copy of the NOA sent to the claimant, indicating the claim period to be processed by the second CWD, when the correct CWD can be determined by the information on the claim form or case record. In

addition, the CWD shall inform the claimant on that same NDA, that for the period in question, his/her claim has been forwarded to the correct CWD for processing.

(a) The date the claim form is submitted to the first CWD, as determined in Section 50-016.414, shall be considered the date of submission to the second CWD.

.522 Where the correct CWD cannot be determined from the information in the case file or warrant registers, the CWD identified by FTB on the claim form (Temp 1706) or the Release of Tax Information Form (Temp 1706C) shall be considered the correct CWD.

#### .6 Calculation of Retroactive Benefits:

.61 The CWD shall determine the amount of retroactive benefits as follows:

.611 When the case record and/or warrant registers contain sufficient information to verify a claim, the amount of the retroactive benefits will be the difference between the old grant amount and the new grant amount when adjusted by counting income tax refunds as property rather than as income.

.612 When case record information and warrant registers are insufficient to verify a claim for the first retroactive period (January 1979 through March 1980) the CWD will calculate the retroactive benefit amount(s) to be the amount of the income tax refund or the Maximum Aid Payment (MAP), whichever is less. For the second retroactive period (May 1982 through August 1982), the CWD shall calculate the retroactive benefit amount to be the amount of the income tax refund identified by IRS and/or FTB.

.62 A CWD shall determine the amount of cash aid which ~~should have been~~ was actually received and compare it to the corrected grant or the MAP as instructed in Section 50-016.6.

.621 If the cash aid received was less than the MAP for any month in the retroactive period due to the receipt of an income tax refund, the difference between the cash aid amount received and MAP or

the corrected grant amount will be the retroactive benefit for that month.

.7 Computation and Delivery of Retroactive Payments

.71 For claims submitted for a grant reduction, termination or denial which occurred before January 1, 1981, four calculations will be made.

.711 Determine the amount of the retroactive benefit from the information in the case file or from information supplied by the FTB and/or the IRS (See Section 50-016.6).

.712 Multiply the amount of the monthly retroactive benefit by the appropriate percentage as set forth in Section 50-016.79.

.713 Multiply the same retroactive benefit amount by the appropriate percentage for the month in which the payment is authorized as set forth in Section 50-016.791.

.714 Add amounts in Sections 50-016.711, .712 and .713 to arrive at the retroactive payment.

.72 Examples

.721 For a claim submitted for a grant reduction, termination or denial which occurred before January 1, 1981.

(Month of Retroactive Benefit)	February 1980	= \$300
--------------------------------	---------------	---------

(Interest percentage to be paid for the 7% period)	x January 1981	= x.0640
	Interest Amount	= \$19.20

(Interest percentage to be paid in the payment authorization month)	February 1980	= \$300
	x March 1988	= x.7246
	Interest Amount	= \$217.38

.722 Add the amount of the retroactive benefit to the interest computed above to determine the retroactive payment.

Retroactive Benefit	+	Interest	+	Interest	=	Retroactive Payment
\$300.00		\$19.20		\$217.38		\$536.58

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.73 For claims submitted for a grant reduction, termination or denial which occurred after January 1, 1981 three calculations will be made:

.731 Determine the amount of the retroactive benefit an individual class member received for each claim of retroactive eligibility.

.732 Multiply the amount of the retroactive benefit by the appropriate percentage for the month in which payment is authorized, as set forth in Section 50-016.792.

.733 Add amounts in Sections 50-016.731 and .732 to arrive at the retroactive payment.

#### .74 Examples

.741 For a claim submitted for a grant reduction, termination or denial which occurred after January 1, 1981.

(Month of Retroactive Benefit)	June 1982	= \$300
(Interest Percentage to be paid in payment authorization month	x March 1982	= x.5836
	Interest Amount	= \$175.08

.742 Add the amount of the monthly retroactive benefit to the interest computed above to determine the retroactive payment.

Retroactive Benefit	+	Interest	=	Retroactive Benefit
\$300		\$175.08		\$475.08

.75 If a claimant has his grant reduced, terminated or denied due to the receipt of an income tax refund for more than the one month in the retroactive periods, add all retroactive payments together to arrive at a total retroactive payment.

.76 Retroactive benefits received shall not be used to offset an overpayment incurred before August 31, 1982.

.77 Determine the total retroactive payment and send the appropriate NDA as specified by SDSS within 90 days from the date the claim is received if case record

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information is available. If tax record information must be requested from the FTB and/or the IRS, an additional 30 days after the information is received by the CWD will be permitted for processing.

.78 Maximum Aid Payments in the Retroactive Periods

Size of FBU	Maximum Aid		
	1/01/79- 6/30/79	7/01/79- 6/30/80	7/01/81- 6/30/82
1	\$175	\$201	\$248
2	287	331	408
3	356	410	506
4	423	487	601
5	483	556	686
6	543	625	771
7	596	686	846
8	649	747	922
9	701	807	996
10 or more	754	868	1,071

.79 Seven Percent (7%) Interest Factor Table

January 1979 through December 1980\*

Retroactive Benefit	December 1980
January 1979	.1400
February 1979	.1340
March 1979	.1287
April 1979	.1227
May 1979	.1170
June 1979	.1110
July 1979	.1053
August 1979	.0993
September 1979	.0934
October 1979	.0876
November 1979	.0817
December 1979	.0759
January 1980	.0700
February 1980	.0640
March 1980	.0587

\* SDSS is paying seven percent (7%) simple interest on retroactive benefits for the period prior to January 1981. The interest factors shown above provide the

Factor to be used in the first step of computing retroactive benefits for claims submitted for benefit months prior to January 1981.

.791

Ten Percent (10%) Interest Factor Table\* January 1981  
through November 1988 Payment Authorization Month

Retroactive Benefit Month	03/88	04/88	05/88	06/88	07/88	08/88	09/88	10/88	11/88
Jan. 1979	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915
Feb. 1979	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915
Mar. 1979	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915
Apr. 1979	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915
May 1979	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915
June 1979	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915
July 1979	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915
Aug. 1979	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915
Sept. 1979	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915
Oct. 1979	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915
Nov. 1979	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915
Dec. 1979	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915
Jan. 1980	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915
Feb. 1980	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915
Mar. 1980	.7246	.7329	.7414	.7496	.7581	.7666	.7748	.7833	.7915

\* SDSS is paying ten percent (10%) simple interest on retroactive benefits for the period after January 1981. The interest factors shown above provide the factor to be used in the second step of computing retroactive benefits for claims submitted for benefit months prior to January 1981.

.792

Ten Percent (10%) Interest Factor Table May 1982  
through November 1988\* Payment Authorization Month

Retroactive Benefit Month	03/88	04/88	05/88	06/88	07/88	08/88	09/88	10/88	11/88
May 1982	.5920	.6003	.6088	.6167	.6252	.6337	.6419	.6504	.6586
June 1982	.5836	.5918	.6003	.6082	.6167	.6252	.6334	.6419	.6501
July 1982	.5753	.5836	.5920	.6000	.6085	.6170	.6252	.6337	.6419
Aug. 1982	.5668	.5751	.5836	.5915	.6000	.6085	.6167	.6252	.6334

•<sup>a</sup> Statistical Reporting

The CWD shall submit to SDSS a statistical report no later than November 1, 1988 containing the following information:

- (a) Number of claims received
- (b) Number of claims paid
- (c) Amount of the benefits paid
- (d) Number of claims denied
- (e) Reasons for denial

Authority Cited: Sections 10553 and 10554, Welfare and Institution Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code, and Vaessen v. Woods (1984) 35 Cal. 3d 749, and Vaessen v. McMahon, Stipulated Judgement and Order Approving Settlement, Los Angeles Superior Court, September 17, 1987, No. CA 000563.

# OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

**FILED**

In this office of the Secretary of State  
of the State of California

JUN 16 1988

At 4:15 o'clock P. M.

MARCH FONG EU, Secretary of State

By *Patricia B. Bales*  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-0518-02

*Linda Stockdale Brewer*  
LINDA STOCKDALE BREWER  
DIRECTOR

6/16/88

Date

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

1988 MAY 20 AM 9:08

OFFICE OF  
ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING

JUN 20 1988

Office of Administrative Law

For use of Office of Adm Law

State Department of Social Services

(AGENCY)

*L. S. Mahal*

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 5/18/88

FILED

In this office of the Secretary of State  
of the State of California

JUN 20 1988

At 4:36 o'clock P.M.

MARCH FONG EU, Secretary of State

By *John R. Bates*  
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)  
Rosalie Clark Chief, Regulations Bureau  
TELEPHONE (916) 445-0313
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)  
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)  
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:  
Title 22  
SECTIONS ADOPTED:  
SECTIONS AMENDED: 101315 and 101316.2  
SECTIONS REPEALED:  
b. The following sections listed in 3a contain modifications to the text originally made available to the public:
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)  
☐ prior to the emergency adoption  
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?  
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?  
☒ No ☐ Yes, if yes, give date statement was submitted to OAL
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)  
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)  
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)  
☐ Other (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER  
September 4, 1987  
b. DATE OF FINAL AGENCY ACTION  
May 18, 1988  
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))  
None
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)  
a. ☒ Effective 30th day after filing with the Secretary of State.  
b. ☐ Effective upon filing with the Secretary of State.  
c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s):  
d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.  
e. ☐ Effective on \_\_\_\_\_ (Designate effective date *later than* the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
- b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
- c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
- b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
- c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
- d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
- e. If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director

Amend Section 101315 to read:

101315 DAY CARE CENTER DIRECTORS, QUALIFICATIONS AND DUTIES 101315  
(Continued)

- (i) Approved schools, colleges or universities, including correspondence courses offered by the same, means those approved/authorized by the U.S. Department of Education, Office of Postsecondary Education or by the California State Department of Education, Office of Private Postsecondary Education pursuant to Education Code Sections 94310.1(a) or (b), or 94311(c) or (d).
- (j) Accredited schools, colleges or universities, including correspondence courses offered by the same, means those accredited by any one of the following recognized accrediting agencies.
- (1) Accrediting Commission, National Home Study Council.
  - (2) Western Association of Schools and Colleges.
- (k) Units earned through correspondence courses from approved or accredited schools, colleges or universities shall be accepted for meeting educational requirements as specified in (h) above.

(i) (Continued)

(j) (Continued)

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, ~~1596.81~~, 1596.87, 1597.05, and 1597.055, Health and Safety Code.



Amend Section 101316.2 to read:

101316.2 TEACHER QUALIFICATIONS AND DUTIES (Continued) 101316.2

(c) (Continued)

(1) (Continued)

- (A) The educational units specified in (1) above shall include courses which cover the general areas of child growth and development or human growth and development; child, family and community or child and family; ~~or~~ and program/curriculum. (Continued)

(d) Approved schools, colleges or universities, including correspondence courses offered by the same, means those approved/authorized by the U.S. Department of Education, Office of Postsecondary Education or by the California State Department of Education, Office of Private Postsecondary Education pursuant to Education Code Sections 94310.1(a) or (b), or 94311(c) or (d).

(e) Accredited schools, colleges or universities, including correspondence courses offered by the same, means those accredited by any one of the following recognized accrediting agencies.

(1) Accrediting Commission, National Home Study Council.

(2) Western Association of Schools and Colleges.

(f) Units earned through correspondence courses from approved or accredited schools, colleges or universities shall be accepted for meeting educational requirements as specified in (c) above.

(dg) (Continued)

(eh) (Continued)

(fi) (Continued)

Authority Cited: Section 1596.81, Health and Safety Code.

Reference:

Sections 1596.72, 1596.73, ~~1596.81~~ 1596.87,  
and 1597.05, and 1597.055, Health and Safety  
Code.

OFFICE OF ADMINISTRATIVE LAW  
**CERTIFICATION**  
**OF**  
**APPROVAL**

**FILED**

In this office of the Secretary of State  
of the State of California

JUN 20 1988

At 4:36 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Arthur B. Bates*  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 88-0520-01

*Linda Stockdale Brewer*  
LINDA STOCKDALE BREWER  
DIRECTOR

*6/20/88*  
Date

**FACE SHEET**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

**FILED**  
In this office of the Secretary of State  
of the State of CaliforniaJUN 20 1988  
At 4:36 o'clock P. M.  
MARCH FONG EU, Secretary of State  
By [Signature]  
Deputy Secretary of StateENDORSED  
APPROVED FOR FILING  
JUN 20 1988

Office of Administrative Law

For use of Office of Adm Law

Department of Social Services  
(AGENCY)[Signature]  
AGENCY OFFICER WITH RULEMAKING AUTHORITYDate: 5/31/88

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING  
(See instructions)  
Rosalie Clark, Chief, Regulations Development Bureau  
TITLE  
TELEPHONE  
445-0313
2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance  
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)  
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction  
(Complete Part 4 below)
3. a. Specify California Administrative Code title and sections as follows:  
Title MPP  
SECTIONS ADOPTED:  
SECTIONS AMENDED:  
40-187.2, 44-211.3, 44-211.4, 44-211.5, 44-211.6, 40-125.5, 44-317.1  
SECTIONS REPEALED:  
44-211.3, 40-001  
b. The following sections listed in 3a contain modifications to the text originally made available to the public: (see attached)
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)  
☐ prior to the emergency adoption  
☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?  
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: \_\_\_\_\_
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?  
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: \_\_\_\_\_
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)  
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)  
☐ State Fire Marshall (Attach approval) ☒ Department of Finance (Attach properly signed Std. 399)  
☐ Other \_\_\_\_\_  
(SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER  
January 29, 1988  
b. DATE OF FINAL AGENCY ACTION  
MAY 31 1988  
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))  
April 29, 1988 - May 16, 1988
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)  
a. ☐ Effective 30th day after filing with the Secretary of State.  
b. ☐ Effective upon filing with the Secretary of State.  
c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_  
d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.  
e. ☒ Effective on 7/1/88 (Designate effective date *later than* the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
  - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
  - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
  - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
  - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
  - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
  - If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

FACE SHEET - STD Form 400

3.b. Continued

40-001

40-125.5

40-187.224

44-211.312

44-211.321

44-211.51 et seq.

44-211.52 et seq.

44-211.533 and .535

44-317.15

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director

## CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Section 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on December 30, 1987, and which became effective on February 1, 1988.

Manual of Policies and Procedures, Divisions 40 and 44,  
Chapters 40-000, 40-100, and 44-200, Sections:

Amended

40-187.22  
44-211.3-.6

Adopted

40-001

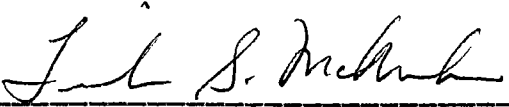
These regulations were presented at public hearing on March 16, 1988. As a result of the public hearing, the following sections have been changed.

Amended

40-125.5  
40-187.224  
44-211.312  
44-211.321  
44-211.51 et seq.  
44-211.52 et seq.  
44-211.533 and .535  
44-317.15

Repealed

40-001

  
\_\_\_\_\_  
LINDA S. McMAHON  
Director

5/31/88  
\_\_\_\_\_  
Date



Repeal MPP Section 40-001 to read:

40-001 IMPLEMENTATION OF NONRECURRING SPECIAL NEEDS 40-001

This regulatory action consisting of repeal of MPP Section 44-211.3, amendment of 40-187.2, renumbering of 44-211.4 and adoption of new 44-211.3, 44-211.4, and 44-211.5 shall be effective February 1, 1986, contingent upon federal approval of California's State Plan Amendment to revise nonrecurring special needs to provide for homeless assistance.

The implementation date of the regulations shall be the date of federal approval, if this date is later than February 1, 1986.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11450(f), Welfare and Institutions Code.

Amend MPP Section 40-125.5 to read:

40-125      PROCESSING APPLICATIONS, REAPPLICATIONS,  
                 AND RESTORATIONS (Continued)

40-125

.5      Applicant or Recipient Moves After Signing Application or  
         Requesting Restoration (Continued)

- .51      For cases in which an application has been signed in the  
         first county, and the applicant requests homeless  
         assistance (see Section 44-211.5) in a second county  
         prior to eligibility being established and/or  
         authorization of aid in the first county, the  
         application process shall be reinitiated in the second  
         county.      The second county is responsible for issuing  
         the payment for homeless assistance from the date of the  
         request.      The first county shall take denial action of  
         the application signed in the first county.

Authority Cited:      Sections    10553    and    10554,    Welfare    and  
                                 Institutions Code.

Reference:              Section    11450(f),    Welfare    and    Institutions  
                                 Code.

Amend MPP Section 40-187.224 to read:

40-187 INTERCOUNTY TRANSFERS - GENERAL (Continued) 40-187

.2 Responsibility for Payment of Aid when a Recipient Moves from One County to Another to Make His/Her Home (Continued)

.22 Exceptions to Intercounty Transfer Rule (Continued)

.224 When an AU is applying for requests homeless assistance the second county is responsible for following up with the first county as part of the determination of eligibility for homeless assistance. [HANDBOOK: See Section 44-211.5.]

(a) The second county is responsible from the date of the request for issuing the payment for homeless assistance.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11450(f), Welfare and Institutions Code.

Amend Section 44-211.312, .32, .442, .51, .512-.519, .522-.526, .531-.533, and .535 to read:

44-211 Special Needs for AFDC (Continued)

44-211

.3 Nonrecurring Special Need Payments

.31 A payment for a nonrecurring special need shall be granted to an eligible AU when any of the following conditions exist:

.311 Household emergencies resulting from sudden and unusual circumstances beyond the AU's control. (See MPP 44-211.4).

.312 Homelessness when the AU is seeking permanent housing shelter. (See MPP 44-211.5).

(a) Refugee Cash Assistance (RCA) applicants/recipients are not eligible to receive AFDC homeless assistance as provided in MPP 44-211.5.

.32 An AU is ineligible to receive a nonrecurring special need payment if it has over \$100 in nonexempt liquid resources.

.321 The CWD shall evaluate nonexempt liquid resources when an AU requests a nonrecurring special need payment for any of the following:

(a) An emergency resulting from sudden and unusual circumstances beyond the AU's control (see Section 44-211.4);

(b) Once per incident of homelessness, as defined in MPP 44-211.514.

.33 Liquid resources of \$100 or less shall not be considered for purposes of computing the nonrecurring special need payment.

HANDBOOK

See MPP 42-211.2 for definition of liquid resources; see MPP 40-120.21 for exceptions to the MPP 42-211.2 definitions.

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•4 Emergencies Resulting from Sudden and Unusual Circumstances Beyond the AU's Control

•41 An AU is entitled to receive a nonrecurring special need payment to repair or replace clothing or household equipment; to provide assistance for damages to the home; or to pay for interim shelter when the AU's home was destroyed or made uninhabitable or inaccessible. (See MPP 44-211.42, .43, and .44 respectively.)

•411 The loss or damage must have been caused by sudden and unusual circumstances beyond the AU's control.

•412 The CWD shall determine the most feasible and economic method of repair or replacement including the provision of donated or used serviceable items.

•413 The total amount allowed for the payment for household emergencies shall not exceed \$600 for each incident resulting from the circumstances described in MPP 44-211.41 and .411.

(a) The amount of the payment for each item to be repaired or replaced, or to assist with damage to the home, shall be the actual cost, including sales tax, up to a total maximum not to exceed the amount allowed in MPP 44-211.413.

(b) Payment shall not be made to repair or replace clothing, household items or damage to the home occupied by the AU, unless the clothing, household items or home belonged to a member of the AU.

•42 Clothing and Household Equipment

•421 Within the limit specified in MPP 44-211.413, a payment made to replace clothing may not exceed \$25 for each member of the AU.

•422 Items of household equipment which may be repaired or replaced include, but are not limited to the following:

(a) Bedding, dishes, kitchen utensils - \$12 for each person in the AU

(b) Cook stove - \$142

- (c) Refrigerator - \$190
- (d) Space heater - \$73
- (e) Double bed including mattress - \$143
- (f) Other essential furniture - \$50

.43 Damage to the AU's Home

.431 Within the limit specified in MPP 44-211.413, a payment may be made for the costs of essential repair or replacement resulting from damage to the AU's home.

.432 The payment shall be allowed for the following costs:

- (a) Moving and/or storage costs necessitated by the damage to the home.
- (b) Labor and material costs for repair of the home in which the AU lives and which a member of the AU owns.

.44 Interim Shelter

.441 An AU may receive a nonrecurring special need payment for the costs of interim shelter when its home has been destroyed, made uninhabitable or inaccessible.

.442 An AU is not eligible to receive a nonrecurring special need payment for the costs of interim shelter if it is eligible to receive the nonrecurring special need payment for homeless assistance described in MPP 44-211.5.

HANDBOOK

- (a) If an AU has received the nonrecurring special need for homeless assistance, and the AU's home is subsequently destroyed, made uninhabitable or inaccessible, the AU may qualify for interim shelter assistance in accordance with MPP 44-211.441.

HANDBOOK

.5 Homeless Assistance

.51 General

A homeless AU seeking permanent housing is eligible to receive homeless assistance. Homeless assistance is available to meet the reasonable costs of securing permanent housing and is also available to meet the costs of temporary shelter, to the extent that such shelter assists an AU while securing permanent housing while the AU is seeking permanent housing.

#### HANDBOOK

See MPP 44-211.52 for specifics regarding the payment for temporary shelter assistance; see MPP 44-211.53 for specifics regarding the payment for permanent housing assistance.

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.511 An AU is considered homeless when:

- (a) It lacks a fixed and regular nighttime residence; or
- (b) It has a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations; or
- (c) It is residing in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

.512 An AU is not considered homeless when it is sharing housing, unless the housing is being shared on an emergency basis and is temporary.

.513 Although an AU may be considered homeless, in accordance with the definition in MPP 44-211.551, a homeless assistance payment shall not be issued to an AU if the CWD establishes that the AU has shelter at no cost.

.5134 An AU is eligible for the nonrecurring special need payment for homeless assistance for one incident of homelessness in a consecutive twelve 12-month period. A homeless assistance payment may be granted for either, or both, temporary shelter or permanent housing.

- (a) The AU must complete the Written Statement of Facts for homeless assistance (CA 42). The Statement of Facts for Homeless

Assistance is designed to gather information specific to the elements of eligibility for the nonrecurring special need for homeless assistance.

(ab) The twelve 12-month period begins in the month in which the first homeless assistance payment is issued.

(bc) The incident of homelessness ends when the AU receives the payment for permanent housing.

~~(1)~~ An AU is not eligible for temporary shelter assistance once it has been granted permanent housing assistance, until the end of the twelve-month period.

(2) An AU is eligible to receive permanent housing assistance regardless of whether or not it has been issued the payment for temporary shelter.

(d) The CWD may request verification of the following:

(1) The AU has incurred a cost for temporary shelter and

(2) The amount expended for permanent housing.

(e) An AU's failure or inability to provide verification constitutes a presumption of mismanagement of AFDC funds (see MPP 44-211.519).

.515 An otherwise eligible AU that has received a homeless assistance payment within the preceding 12 months may be eligible to receive a new homeless assistance payment under the following conditions:

(a) There is a new caretaker relative who was not living with the AU at the time the original homeless assistance payment was issued, and



(b) The former caretaker relative is not living in the home with the assistance unit.

.516 When homeless assistance has been granted under MPP 44-211.5, the beginning date of aid is the date of the first homeless assistance payment.

.5147 In intercounty transfer cases, the CWD from which the homeless assistance payment is requested is responsible for following up with the transferring other CWD as part of the homeless assistance eligibility determination.

(a) The CWD from which homeless assistance is requested is responsible from the date of the request for determining making the homeless assistance eligibility determination and issuing the homeless assistance payment.

.5158 The CWD shall comply with an AU's written request to make direct payments to the AU or to the providers of temporary shelter, permanent housing or utilities unless the conditions in MPP 44-211.519 exist.

(a) The CWD shall determine the most appropriate method of payment to third parties which includes, but is not limited to, direct vendor payments, two-party or restrictive endorsement checks, or voucher payments.

.519 The CWD shall make direct payments to providers of temporary shelter, permanent housing or utilities for any future homeless assistance payments associated with the incident of homelessness when the CWD establishes a finding of mismanagement of AFDC cash assistance.

(a) Mismanagement exists only when the CWD determines that the homeless assistance payment was not used for shelter (see MPP 44-211.514(e)).

## .52 Temporary Shelter

The temporary shelter payment may be available no more than once in ~~twelve~~ 12 months to a homeless AU for

temporary shelter, when the AU is also seeking permanent housing.

- .521 The temporary shelter payment is also available to homeless applicant AUs who are apparently eligible for AFDC.

HANDBOOK

- (a) Apparent eligibility for AFDC exists when evidence and/or the information provided on the application documents indicate that there would be eligibility for AFDC if the evidence and information were verified.
- (1) The potentially eligible AU must agree to cooperate with the CWD in meeting the AFDC procedural requirements specified in MPP 40-129.431(b), unless good cause, as defined in MPP 43-107.4, exists.
- (2) Information from any source may be considered.
- (b) In determining an apparently eligible AU, do not include a person who is:
- (1) An alien applicant who does not provide verification of his/her eligible alien status; or
- (2) A woman with no eligible children who does not provide medical verification of pregnancy; or
- (3) A person who is sanctioned.

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- .522 An AU is not eligible to receive the temporary shelter payment if it has already been granted permanent housing assistance during the ~~twelve~~ 12-month period described in MPP 44-211.513.4 except:

- (a) An AU may receive temporary shelter assistance, after it has been granted permanent housing assistance, when the AU still needs temporary shelter prior to assuming occupancy of the permanent housing, provided that the temporary

shelter 21- (or 28- when good cause is established) consecutive-day limit has not expired.

- .523 The payment for temporary shelter shall be issued or denied within the same working day in which the AU requests homeless assistance or no later than the close of business on the next working day when the CWD arranges for shelter in the interim.

(a) When the CWD arranges for shelter in the interim, the temporary shelter may be issued no later than the close of business on the working day following the request.

(b) The temporary shelter payment, or CWD arranged interim shelter, shall be issued to an otherwise eligible AU on the last CWD working day before a weekend or holiday when it is established that the AU will lack shelter on the weekend or holiday.

- .524 The temporary shelter payment shall be paid up to twenty-one consecutive days to eligible homeless AUs.

An AU determined to be homeless may be eligible for up to 21 (28) consecutive days of temporary shelter assistance, regardless of the CWD's schedule for issuance of payments.

(a) The AU must request all temporary shelter assistance before the end of the 21-(28-) consecutive-day limit.

(b) The AU must provide verification of shelter expenditures to receive reimbursement for temporary shelter assistance for expenses incurred within the 21-(28-) day period.

(ag) The twenty-one 21- consecutive-day limit shall be extended an additional seven consecutive days for good cause.

(1) Good cause includes, but is not limited to, the following situations:

(A) The CWD determines that the AU, to the extent it is capable, has made a good faith but

unsuccessful effort to find permanent housing within the ~~twenty-one~~ 21-day limit; or

- (8) The permanent housing located by the AU will not be available for occupancy within the ~~twenty-one~~ 21-day temporary shelter period.

.525 The amount of the nonrecurring special need payment for temporary shelter shall be specified by the State Department of Social Services pursuant to the Budget Act.

- (a) An AU with four or fewer members shall receive a daily amount as specified in law Welfare and Institutions Code Section 11450(f)(2)(A). [HANDBOOK: (1) Effective February 1, 1988, the amount is \$30.]

- (b) The fifth and each additional member of an AU shall each receive an amount equal to one-fourth of the amount specified in MPP 44-211.525(a).

- (1) The total amount available to an AU with five or more members shall not exceed a maximum of two times the amount specified in MPP 44-211.525(a).

HANDBOOK

- (2) Effective February 1, 1988, the amount for the fifth and each additional member of an AU shall be \$7.50 (see MPP 44-315.323).

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- (c) The CWD shall not require receipts or verification of the expenditure of the payment.

.526 CWDs may grant the temporary shelter payment in increments ranging from one day's to one week's worth of payment. Within the 21-(28-) consecutive-day limit, the minimum payment shall cover the period from issuance to the next CWD workday unless MPP 44-211.523(b) applies.

•53 Permanent Housing

The permanent housing payment is available to assist homeless recipient AUs in obtaining permanent housing.

- 531 A nonrecurring special need payment for permanent housing assistance shall be made only to AUs presenting evidence that the AU has found permanent housing which does not rent for more than 80% percent of the AU's MAP, without special needs, for an AU of that size.

(a) If the CWD determines that an AU intends to share housing costs, and the AU's share of the total housing costs does not exceed 80 % percent of its MAP, •531 above shall not apply.

(b) Shared housing includes, but is not limited to, the following:

(1) Two or more AUs residing together;

(2) SSI/SSP recipient(s) residing with AFDC recipient(s);

(3) An AU residing with unaided person(s) providing that the AU's share does not exceed 80 percent of the MAP.

- 532 An amount not to exceed two months of an AU's rent, as described in MPP 44-211.531, is available to pay for the reasonable costs of security deposits when the deposits are a condition of securing a permanent residence.

(a) Security deposits include last month's rent and any legal payment, fee, deposit or charge that is required by a landlord as a condition of assuming occupancy.

(b) That portion of the security deposit payment, available for last month's rent shall not exceed 80% percent of the AU's MAP, without special needs, for an AU of that size.

- 533 The payment for permanent housing costs may include the actual costs of utility deposits in

addition to the amount allowable for security deposits described in MDP 44-211.532.

(a) The payment shall cover deposits (turn-on-fees) required for gas, electricity and/or water.

(b) The payment shall not include the costs of overdue utility bills.

.534 The CWD has one working day from the time the AU provides the following information to issue or deny a payment for permanent housing assistance:

(a) Evidence of the availability of permanent housing costing not more than 80% percent of the AU's MAP, and

(b) Information necessary for the CWD to establish eligibility for AFDC.

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535 Evidence of availability of housing may include, but is not limited to:

(a) A copy of the rental agreement;

(b) Written confirmation from the landlord;

(c) A CWD follow-up telephone call to the landlord, with the consent of the AU;

(d) When the CWD and AU are unable to get any confirmation, a signed statement from the AU attesting to the availability of the housing.

.5365 If due to an emergency, an AU must move within the twelve 12-month time limit specified in MDP 44-211.5134, the AU shall be allowed to transfer deposits to meet the security deposits for the new residence.

(a) An emergency cannot result from an intentional act on the AU's part.

(b) If the CWD determines that the transfer was within the twelve 12-month time limit, and

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not an emergency, refunded deposits shall be treated as liquid resources.

•6 Pregnancy Special Needs

•61 In addition to the basic grant, a pregnancy special need payment shall be authorized for all aided pregnant women, subject to the following conditions:

•611 A pregnant woman who is not included in an AU with any federally eligible persons shall be entitled to receive the pregnancy special need payment from the date of medical verification of pregnancy through the month of birth.

•612 A pregnant woman who is included in an AU with any federally eligible persons shall be entitled to receive the pregnancy special need payment beginning with the third month immediately prior to the month of anticipated birth and continuing through the month of birth, but not prior to the date of medical verification of pregnancy.

HANDBOOK

•62 A pregnancy special need payment is \$70 per month.

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11450(f), Welfare and Institutions Code.

Amend MPP Section 44-317.1 as follows:

44-317 BEGINNING DATE OF AID

44-317

.1 Basic Date of Aid Determination (Continued)

.15 When homeless assistance has been granted in accordance with MPP 44-211.5, the beginning date of aid is the date of the first homeless assistance payment.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11056 and 11450(f), Welfare and Institutions Code.



OFFICE OF ADMINISTRATIVE LAW  
CERTIFICATION  
OF  
APPROVAL

FILED  
In this office of the Secretary of State  
of the State of California

JUN 20 1988

At 4:36 o'clock P.M.

MARCH FONG EU, Secretary of State

By John Bales  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 88-0531-02

  
LINDA STOCKDALE BREWER  
DIRECTOR

6/20/88  
Date

# REGULAR

FACE SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

*Jul S. McHugh*  
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 6/2/88

(See Instructions on Reverse)

RDB #0185-04

**FILED**

In this office of the Secretary of State  
of the State of California

JUL 06 1988  
4:27 o'clock PM  
MARCH FONG EU, Secretary of State  
By *Jon A. Ross*  
Deputy Secretary of State

1988 JUN -8 AM 11:31

OFFICE OF  
ADMINISTRATIVE LAW

APPROVED FOR FILING

JUL 06 1988

Office of Administrative Law

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE  
Rosalie Clark, Chief, Regulations Development Bureau 445-0313

2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title 22

SECTIONS ADOPTED:

SECTIONS AMENDED:

102417

SECTIONS REPEALED:

- b. The following sections listed in 3a contain modifications to the text originally made available to the public: \_\_\_\_\_

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: \_\_\_\_\_

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL: \_\_\_\_\_

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other \_\_\_\_\_ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER July 17, 1987	b. DATE OF FINAL AGENCY ACTION <u>6/2/88</u>	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) 4/7/88 to 4/22/88
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9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☒ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective upon filing with the Secretary of State.
- c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_
- d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on \_\_\_\_\_ (Designate effective date *later than* the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3.a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
  - b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
  - c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
  - b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
  - c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
  - d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
  - e. If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director

Amend Section 102417 to read:

102417 OPERATION OF A FAMILY DAY CARE HOME (Continued) 102417

(m) The licensee or registrant shall comply with liability insurance coverage requirements as specified in Health and Safety Code Section 1597.531.

Health and Safety Code Section 1597.531 provides:

- (1) All family day care homes for children shall either maintain in force liability insurance covering injury to clients and guests in the amount of at least one hundred thousand dollars (\$100,000) per occurrence and three hundred thousand dollars (\$300,000) in the total annual aggregate, sustained on account of the negligence of the licensee or its employees, or a bond in the aggregate amount of three hundred thousand dollars (\$300,000). In lieu of the liability insurance or the bond, the family day care home may maintain a file of affidavits signed by each parent with a child enrolled in the home which meets the requirements of this subdivision. The affidavit shall state that the parent has been informed that the family day care home does not carry liability insurance or a bond according to standards established by the state. These affidavits shall be on a form provided by the department and shall be reviewed at each licensing inspection.
- (2) The department shall initiate proceedings to revoke the license of any family day care home that is out of compliance with this section.

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Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.81(b), and 1597.30 and 1597.531, Health and Safety Code.

FILED

In this office of the Secretary of State  
of the State of California

JUL 06 1988

At 4:27 o'clock

MARCH FONG EU, Secretary of State

By *[Signature]*  
Deputy Secretary of State

# OFFICE OF ADMINISTRATIVE CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-0608-02

*Linda Brewer*  
\_\_\_\_\_  
LINDA STOCKDALE BREWER  
DIRECTOR

*7-6-88*

Date

FACE SHEET

88-0609-02  
RDB# 1286-57  
(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW  
CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

**FILED**  
In this office of the Secretary of State  
of the State of California

1988 JUN -9 AM 11:23  
OFFICE OF  
ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING  
JUL 08 1988

Department of Social Services

(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

JUL 08 1988  
4:38 o'clock P.M.  
MARSH FONG EU, Secretary of State  
By [Signature]  
Deputy Secretary of State

For use of Office of Adm Law

Date: 5/25/88

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING  
(See instructions)

TITLE

TELEPHONE

Rosalie Clark, Chief

Regulations Development Bureau

445-0313

2. Type of filing, (check one)



30-day Review



Emergency



Certificate of Compliance  
(Complete Part 4 below)



Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)



Nonsubstantive changes with nonregulatory effect



Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

SECTIONS AMENDED:

69-203, 204, 205, 206, 208, 209 and 212

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)



prior to the emergency adoption



within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?



No



Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?



No



Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)



Fair Political Practices Commission  
(Include FPFC approval stamp)



Building Standards Commission  
(Attach approval)



State Fire Marshall (Attach approval)



Department of Finance (Attach properly signed Std. 399)



Other

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA  
ADMINISTRATIVE NOTICE REGISTER

b. DATE OF FINAL AGENCY ACTION

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT.  
CODE SEC. 11346.8(c))

July 3, 1987

MAY 25 1988

February 15-29, 1988

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. ☒

Effective 30th day after filing with the Secretary of State.

b. ☐

Effective upon filing with the Secretary of State.

c. ☐

Effective on \_\_\_\_\_ as required or allowed by the following statute(s):

d. ☐

Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)

Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

e. ☐

Effective on \_\_\_\_\_ (Designate effective date *later than* the normal effective date for the type of order filed.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director



Amend Section 69-203.3 to read:

69-203 DEFINITIONS (Continued)

69-203

.3 Children of Refugees (Continued)

.35 Minor refugee children for whom no legal relationship has been established with an adult, shall be referred to the appropriate local county government agency to establish that relationship.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 300, Welfare and Institutions Code, Section 1500, Probate Code, and 8 USC 1522(d).

Amend Section 69-204.2 to read:

69-204 RESETTLEMENT AGENCY, SPONSOR AND COUNTY  
RESPONSIBILITIES (Continued)

69-204

.2 County Responsibilities

When a refugee applies to a county for financial assistance, the procedures outlined below shall be followed:

- .21 The CWD, as part of the regular process of determining or redetermining a refugee's eligibility for cash assistance during the first 36 24 months after the refugee's entry into the U.S. shall: (Continued)
- .22 When a VOLAG or sponsor requests the address and telephone number for a refugee during his/her first 36 24 months after his/her entry into the United States, the CWD shall provide this information to the VOLAG or sponsor. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Public Law 100-202, 45 CFR 400.202 and letter dated December 30, 1987 Department of Health and Human Services, Office of Refugee Resettlement.

Amend Section 69-205.4 to read:

69-205 ELIGIBILITY FOR SSI/SSP AND AFDC PROGRAMS (Continued) 69-205

•4 Time-Eligibility for AFDC and SSI/SSP

Federal RRP funds are available for reimbursement of the normal nonfederal share of AFDC, SSI/SSP and Medi-Cal program costs for eligible refugees who are time-eligible. Determination of time eligibility is as follows:

- 41 A refugee who is within the ~~31~~24-month period from the date of entry into the United States shall be considered an AFDC or SSI/SSP time-eligible refugee.
- 42 A refugee who has lived in the United States for more than ~~31~~ 24 months from date of entry shall be considered an AFDC or SSI/SSP time-expired refugee.
- 43 Children born in the United States of refugee parents shall be considered time-expired upon time-expiration of the most recently arrived parent or at the end of the ~~31st~~ 24th month from the child's birth date, whichever occurs sooner.
- 44 The month of arrival, as indicated on the INS Form I-94, or the month of birth is counted as the first month in determining time-eligibility.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 400.202; Public Law 100-202; letter dated December 30, 1987 Department of Health and Human Services.

Amend Sections 69-206.21, .3, .51, .52, and .53 to read:

69-206 ELIGIBILITY FOR REFUGEE DEMONSTRATION PROJECT (RDP) 69-206  
OR REFUGEE CASH ASSISTANCE (RCA) (Continued)

.2 ELIGIBILITY DETERMINATION (Continued)

.21 Time-Eligibility

.211 Eligibility for RDP is limited to the first ~~36~~ 24 months following the date of entry in the United States. The month of entry, as indicated on the INS Form I-94 is counted as the first month.

(a) A refugee who is within the ~~36~~ 24-month period following date of entry in the United States is referred to as an RDP time-eligible refugee for purposes of RDP funding.

(b) A refugee who has lived in the United States for more than ~~36~~ 24 months is referred to as an RDP time-expired refugee for purposes of RDP funding.

(c) (Continued)

(d) Children born in the United States of refugee parents (Section 69-203.3) shall be considered time-expired based on the most recently arrived parent's expiration date or at the end of the ~~36th~~ 24th month from the child's birth date, whichever occurs sooner; however, the entire assistance unit shall remain in the RDP case until the time-expiration of the Caretaker Relative/Principal Earner.

.3 Assistance Units, RCA Only

.31 Assistance Units shall be established as follows:

.311 (Continued)

.32 Brothers or sisters 18 years of age or older residing together may each be established in their own assistance unit.

.3312 Single adult refugees and minor refugees emancipated pursuant to state law shall each be established in their own assistance unit.

.3413 (Continued)

.314 Unemancipated minor refugees shall not be established in their own assistance unit.

.5 Full-time Student in an Institution of Higher Education

.51 Full-time students in a college program in an institution of higher education are not eligible for RCA or RDP.

.511 (Continued)

.512 (Continued)

.52 Refugees who are enrolled and participating in training programs offered at an institution of higher education on a full-time basis as part of an employability plan developed by the CWD or its designee, when such training is less than one year, shall not be denied or discontinued from RCA or RDP.

.53 Refugees who are enrolled and participating in training programs offered at an institution of higher education on less than a full-time basis as part of an employability plan developed by the CWD or its designee, when such training is less than one year in duration, shall not be denied or discontinued from RCA or RDP when attendance in classes in a college program offered at the institution results in full-time status.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 300, 10554 and 13201, Welfare and Institutions Code; letter dated December 30, 1987 Department of Health and Human Services, Office of Refugee Resettlement, 8 USC 1522(d); SRS-AT-76-160 (October 22, 1976); and Section 1500 Probate Code.

Amend Sections 69-208.12, .4, .5, and .6 to read:

69-208 REGISTRATION, EMPLOYMENT AND EMPLOYMENT-DIRECTED 69-208  
EDUCATION/TRAINING REQUIREMENTS

.1 General Requirements (Continued)

- .12 Prior to approval of the application or receipt of aid  
the applicant/recipient must provide written  
verification to the CWD of his/her registration with the  
employment-directed education/training program or FDD.

.4 Refugees Exempt from Registration, Employment and  
Employment-Directed Education/Training Requirements:  
(Continued)

- h. A person whose presence in the home is  
required on a substantially continuous  
basis when verified by a physician's  
written statement because of the physical  
or mental impairment of another member in  
the FSU household, when verified by a  
physician's written statement.

.5 Other Requirements

As an applicant for RDP-U or PCA, a refugee shall not, during  
30 consecutive calendar days immediately prior to the  
beginning date of aid have, without good cause, voluntarily  
quit, been discharged for willful misconduct, or refused to  
apply for or accept a bona fide offer of employment or  
employment-directed education/training, or participate in a  
CWD approved or referred employment-directed  
education/training program.

Authority Cited: Sections 10553 and 10554, Welfare and  
Institutions Code Section

Reference: Department of Health, Education, and Welfare  
action transmittal, SRS-AT-76-160.

Amend Sections 69-209, .36, .4, and .623 to read:

69-209 CAUSE DETERMINATIONS AND CONCILIATION (Continued) 69-209

.3 Factors That Must Be Considered in Cause Determinations (Continued)

.36 There must be a determination that the individual must be was informed of the effect the failure or refusal to accept or continue employment or employment-directed education/training, or failure or refusal to comply with the EDD registration requirements, without good cause, will have on his/her receipt of RDP or RCA. (Continued)

.4 Good cause for failure or refusal to meet or comply with the registration, employment and employment-directed education/training requirements. (Continued)

p. The employment or training violated laws and regulations pertaining to discrimination based on age, sex, race, creed religion, color, or national origin, marital status, political affiliation, or handicap: or

.6 Penalties for Failure or Refusal to Comply with the Registration, Employment and Employment-Directed Education/Training Requirements (Continued)

.62 In the event aid is denied or discontinued, the following actions are required: (Continued)

.623 If the noncomplying refugee is a caretaker relative, assistance in the form of protective ~~or~~ vendor payments will be provided to the remaining members of the budget unit in accordance with AFDC regulations, MPP Section 42-691.221. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11347, Welfare and Institutions Code, MPP Sections 40-107.1, 42-637.1, 42-691.221, and 69-204.26, Sections 11135-11139.5, Government Code.

Amend Section 69-212 to read:

69-212 UNACCOMPANIED REFUGEE MINORS (Continued)

69-212

- .2 An unaccompanied minor continues to meet the criteria for unaccompanied minor and is eligible for child welfare services and foster care payments until the minor:

- .21 (Continued)

- .22 Is reunited with a nonparental adult, either relative or nonrelative, willing and able to care for the child to whom legal custody and/or guardianship is granted; or

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 10554, Welfare and Institution Code; 45 CFR 400.113.



**FILED**  
In this office of the Secretary of State  
of the State of California

JUL 08 1988  
4:38 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By [Signature]  
Deputy Secretary of State

# OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 88-0609-02

[Signature]  
LINDA STOCKDALE BREWER  
DIRECTOR

7/1/88  
Date

SUBMITTED FOR REVIEW

JUN 21 1988

OFFICE OF ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING

JUL 20 1988

Office of Administrative Law

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW  
CERTIFICATION: I hereby certify that the attached  
are true and correct copies of regulations  
adopted, amended or repealed by this agency  
and that the information specified on this Face  
Sheet is true and correct.

State Department of Social Services

(AGENCY)

*L. S. Michel*

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 6/20/88

FILED

In this office of the Secretary of State  
of the State of California

JUL 20 1988

At 4:32 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Susan J. Ward*

Deputy Secretary of State

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie Clark

Chief, Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)

☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)

☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

40-206

SECTIONS AMENDED:

40-105, 40-131, 40-181.311, 44-206

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public: 40-131,

40-181.311, 40-206, 44-206

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

☐ prior to the emergency adoption

☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

☐ Fair Political Practices Commission (Include FPCC approval stamp)

☐ Building Standards Commission (Attach approval)

☐ State Fire Marshall (Attach approval)

☐ Department of Finance (Attach properly signed Std. 399)

☐ Other

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER

July 3, 1987

b. DATE OF FINAL AGENCY ACTION

June 20, 1988

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))

3/28/88 thru 4/11/88, inclusive and 5/9/88 thru 5/23/88,

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse) inclusive

a. ☐ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective upon filing with the Secretary of State.

c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_

d. ☐ Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)

Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

e. ☒ Effective on 9-1-88 (Designate effective date later than the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
- b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
- c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
- b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
- c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
- d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
- e. If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in dark ink, appearing to read "Linda S. McMahon". The signature is fluid and cursive, with the first name "Linda" and last name "McMahon" clearly distinguishable.

LINDA S. MCMAHON  
Director

Amend MPP Section 40-105 to read:

40-105 APPLICANT AND RECIPIENT RESPONSIBILITY

40-105

•1 Assuming Responsibility within His/Her Capabilities

During the determination of initial and continuing eligibility, the applicant or recipient shall assume as much responsibility as he/she can within his/her physical, emotional, educational, or other limitations. Within his/her capabilities, the applicant/recipient is responsible for:  
(continued)

- 15 Cooperating in a quality control review. Cooperation includes, but is not limited to, attending a personal interview with the quality control reviewer and answering questions and providing information necessary to complete the quality control review. Handbook: See Section 40-206, Continuing Activities - Quality Control Review.

Authority Cited: Sections 10553 and 10554. Welfare and Institutions Code.

Reference: 45 CFR 233.10(a)(1)(ii)(B).

Amend MPP Section 40-131 to read:

40-131 INTERVIEW REQUIREMENT (Continued)

40-131

•3 Content of Application Interview

The application interview shall include discussion of the following as pertinent: (continued)

- (a) The applicant's responsibility to cooperate in a quality control review. Handbook: See Section 40-204. Continuing Activities -- Quality Control Review.

Authority Cited: Sections 10553 and 10554. Welfare and Institutions Code.

Reference: Section 11209, Welfare and Institutions Code, and 45 CFR 233.10(a)(1)(ii)(B).

Amend MPP Section 40-181.311 to read:

40-181 CONTINUING ACTIVITIES AND DETERMINATION  
OF ELIGIBILITY (Continued)

40-181

.3 Methods of Periodic Determination of Eligibility

.31 Regulations governing the method of the initial determination also govern all continuing and periodic determinations. (See Sections 40-157 and 40-161.)

.311 Annual redeterminations, using the CA 2 form, shall include an interview with the parent or person responsible for the child. Where the parent is institutionalized, the interview should be conducted with the person having responsibility for care and control of the child. This interview shall include a discussion of the recipient's responsibility to cooperate in a quality control review [see Section 40-131.3 (d)].

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11209 Welfare and Institutions Code, and 45 CFP 233.10(a)(1)(ii)(B).

Adopt new Section 40-206 to read:

40-206 CONTINUING ACTIVITIES -- QUALITY CONTROL REVIEW 40-206

.1 Definitions

- .11 Quality Control Review - the state-mandated administrative system for documenting the extent of and reasons for errors in the determination of eligibility and payments.
- .12 Annual Review Period - for quality control purposes the annual review period is October 1 through September 30.

.2 Actions Which Result in Noncooperation

- .21 A refusal to cooperate in a quality control review without good cause by an individual in the assistance unit or a non-needy caretaker relative shall result in discontinuance for the entire assistance unit. [Handbook: See Section 40-105.1 for recipient responsibility to cooperate.]
  - .211 The individual or the non-needy caretaker relative shall be given verbal or written notice of the consequence of refusal at the same time the demand to cooperate is made.
- .22 Refusal to cooperate shall be found, except as provided in Section 40-206.5, when the individual:
  - .221 Directly expresses to the quality control reviewer a refusal to cooperate either by a letter or a telephone call, or during a face-to-face interview; or
  - .222 Fails to respond within 30 calendar days after the date he/she has signed the receipt for a certified letter requesting his/her cooperation; or
  - .223 Fails to attend a scheduled interview and then does not contact the quality control reviewer within ten calendar days of that failed interview to reschedule; or
  - .224 Fails to attend two scheduled interviews; or



•225 Fails to sign an authorization for release of information form when requested to do so in person by a quality control reviewer; or

•226 Fails to return a signed authorization for release of information form within ten calendar days after the date he/she has signed the receipt for a certified letter requesting return of the signed release form.

•3 Discontinuance for Refusal to Cooperate

•31 Adequate and timely notice shall be given that aid to the entire assistance unit shall be discontinued when the county makes a determination based on documentation that a recipient failed or refused to cooperate without good cause in a quality control review. [Handbook: See Sections 22-021, Adequate Notice, and 22-022, Timely Notice - Aid Pending Hearing.]

•311 Ineligibility for ABC shall be effective the first of the month after the month in which the noncooperation with quality control occurs.

•312 The CWD shall rescind the discontinuance if the recipient cooperates in the quality control review before the effective date of the discontinuance.

•4 Restoration or Readjustment Following Discontinuance

•41 Once discontinued for refusal to cooperate, the assistance unit may request restoration or may readjust but shall not be determined eligible until:

•411 The assistance unit subsequently cooperates and has met all eligibility conditions [Handbook: (See Section 40-107.3, Eligibility Determination)]

•412 The assistance unit readjusts for aid at least 90 calendar days after the end of the annual review period in which the refusal to cooperate occurred, and has met all eligibility conditions. [Handbook: See Section 40-107.3, Eligibility Determination.]

•5 Cause Determination for Noncooperation

•51 The recipient may have good cause for failure or refusal to cooperate.

OAL  
O.P.

7/19/88

Regulatory

- Reference: Section 15200.4, Welfare and Institutions Code;  
45 CFR 233.10(a)(1)(ii)(B).

Amend MPP Section 44-206 to read:

44-206 PERSONS WHO MUST BE EXCLUDED FROM THE ASSISTANCE UNIT (AU) (Continued) 44-206

•2 The entire family is ineligible for aid payments when:  
(Continued)

•221 (Continued)

•232 (Continued)

•243 (Continued)

•254 (Continued)

•265 (Continued)

•26 An individual in the assistance unit or a non-needy caretaker relative refuses to cooperate in a quality control review. Handbook: See Section 40-206. Continuing Activities - Quality Control Review.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 233.10(a)(1)(ii)(B).

FILED

In this office of the Secretary of State  
of the State of California

JUL 20 1988

At 4:32 o'clock P.M.

MARCH FONG EU, Secretary of State

By Susan D. Ward

Deputy Secretary of State

# OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-0621-02



LINDA STOCKDALE BREWER  
DIRECTOR

7/20/88

Date

88-0627-15 C

(See Instructions on Reverse)

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

FILED

In this office of the Secretary of State  
of the State of California

JUL 21 1988  
4:18 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By [Signature]  
Deputy Secretary of State

1988 JUN 27 PM 4:42

OFFICE OF  
ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING  
JUL 22 1988

Office of Administrative Law

State Department of Social Services

(AGENCY)

[Signature]

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 5/26/88

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE  
Rosalie Clark Chief, Regulations Development Bureau 445-0313

2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

63-075

SECTIONS AMENDED:

63-300, 63-403

SECTIONS REPEALED:

- b. The following sections listed in 3a contain modifications to the text originally made available to the public: Not Applicable

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

- ☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: \_\_\_\_\_

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

- ☒ No ☐ Yes, if yes, give date statement was submitted to OAL: \_\_\_\_\_

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☒ Department of Finance (Attach properly signed Std. 399)
- ☐ Other \_\_\_\_\_ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER	b. DATE OF FINAL AGENCY ACTION	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
October 30, 1987	May 26, 1988	Not Applicable

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State.
- c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_
- d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on \_\_\_\_\_ (Designate effective date *later than* the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
  - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
  - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
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  - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
  - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
  - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
  - If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

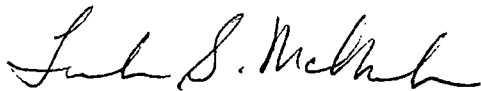
LINDA S. McMAHON  
Director

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

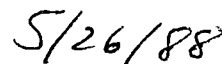
The Department of Social Services hereby certifies that it has complied with the provisions of Section 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on February 17, 1988, and which became effective on March 1, 1988:

Manual of Policies and Procedures, Division 63, Chapters 1, 300, and 400, Sections 63-075, 63,300, and 63-403.

No amendments or repealers resulted from the public hearing held on December 16, 1987.



LINDA S. McMAHON  
Director



Date



Adopt new Section 63-075 to read:

63-075 IMPLEMENTATION OF THE ELIGIBLE ALIEN STATUS REGULATIONS (PUBLIC LAW 99-603) 53-075

- .1 Sections 63-300.512, .512(a), .512(b), .512(c), .512(d), 403.1 and 403.321, as amended herein, are effective March 1, 1988.
- .2 These amended or adopted provisions in Section 63-075 shall be implemented as follows:
  - .21 For aliens who became eligible for food stamps as the result of the change of the continuous residence date, as reflected in Section 63-403.1(c), these regulations must be implemented retroactive to November 6, 1986.
    - .211 For a household that applied for benefits from November 6, 1986 through February 29, 1988 and was denied, the household is entitled to restored benefits back to November 6, 1986 or the date of application, whichever occurred later, if the household:
      - (a) Is otherwise entitled to benefits; and,
      - (b) Requests a review of its case or the CWD becomes aware that a review is needed.
  - .22 For aliens who became eligible for food stamps as the result of Section 63-403.1(k), these regulations must be implemented retroactive to June 1, 1987.
    - .221 For a household that applied for benefits from June 1, 1987 through February 29, 1988 and was denied, the household is entitled to restored benefits back to June 1, 1987 or the date of application, whichever occurred later, if the household:
      - (a) Is otherwise entitled to benefits; and,
      - (b) Requests a review of its case or the CWD becomes aware that a review is needed.
  - .23 The earliest date upon which aliens may become eligible under Section 63-403.1(i) is November 7, 1988.

- .24 The earliest date upon which aliens may become eligible under Section 63-403.1(j) is May 5, 1992.
- .25 The dates during which aliens may become eligible under Section 63-403.1(1) are October 1, 1989 through September 30, 1993.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 18902 and 18904, Welfare and Institutions Code.

Amend Section 63-300 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

.51 Mandatory Verification (Continued)

.512 Alien Status

Based on the application, the CWD shall determine if members identified as aliens are eligible aliens, as defined in Sections 63-403.1(b) through (l), by requiring that the household present verification for each alien member.

- (a) Aliens in the categories specified in Sections 63-403.1(b), (c), and (h) shall present an Immigration and Naturalization Service (INS) Form I-151 or I-551 -- "Alien Registration Receipt Card"; or the "Re-entry Permit," a passport booklet for lawful permanent resident aliens.
- (b) Aliens in the categories specified in Sections 63-403.1(d) through 63-403.1(g) shall present an INS Form I-94 -- "Arrival-Departure Record." The CWD shall accept the INS Form I-94 as verification of eligible alien status only if the form is annotated with Sections 207, 208, 212(d)(5), or 243(h)(1) of the Immigration and Nationality Act; or if the form is annotated with one of the following terms: Refugee, parolee, paroled, conditional entry or entrant, or asylum. An INS form I-94 annotated with the letters (A) through (L) shall be considered verification of ineligible alien status unless the alien can provide other documentation from INS which indicates that the alien is eligible. If the INS form I-94 does not bear any of the above annotations and the alien has no other verification of alien classification in his or her possession, the CWD shall advise the alien:

(1) (Continued)

(2) (Continued)

(3) (Continued)

(4) (Continued)

(c) Aliens in the categories specified in Section 63-403.1(i) through (l) shall present documentation from INS which clearly identifies that the alien has been granted legal status in one of those categories.

(1) Documentation may include, but is not limited to, a letter, notice of eligibility, or an identification card from INS.

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(A) Examples of acceptable documentation include, but are not limited to, I-688 Temporary Resident Cards annotated with Section 210(a) or Section 245A of the Immigration and Nationality Act.

(d) If the proper INS documentation is not available, the alien may state the reason and submit other conclusive verification. The CWD shall accept other forms of documentation or corroboration from INS that the alien is classified pursuant to Sections 101(a)(15), 101(a)(20), 207, 209, 210(a), 210A(a), 212(d)(5), 243(h)(1), 245A, 245A(b)(1), or 249 of the Immigration and Nationality Act, or other conclusive evidence such as a court order stating that deportation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act. Properly completed INS Form G-641 shall also be acceptable verification of eligible alien status.

(e) (Continued)

(f) (Continued)

(g) (Continued)

(h) (Continued)

(i) (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code and 7 CFR 273.2(f)(1)(ii)(D).

Amend Section 63-403 to read:

63-403 CITIZENSHIP AND ALIEN STATUS

63-403

.1 Citizens and Eligible Aliens

CWD shall limit participation in the program to individuals who are residents of the United States and one of the following:

(a) (Continued)

(b) An alien lawfully admitted for permanent residence as an immigrant as defined in Sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (INA). However, an alien lawfully admitted for permanent residence pursuant to Section 245A of the INA shall be eligible as specified in (i) and (j) of this section.

(c) An alien who entered the United States prior to January 1, 1972, or some later date as required by law, and has continuously maintained residency in the United States since then, and is not ineligible for citizenship, but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to Section 249 of the INA.

(d) (Continued)

(e) (Continued)

(f) (Continued)

(g) (Continued)

(h) (Continued)

(i) An alien who is defined as aged, blind, or disabled in accordance with Section 1614(a)(1) of the Social Security Act and who is considered to be lawfully admitted for permanent residence pursuant to Section 245A(b)(1) of the INA. Such aliens may obtain lawful permanent resident status under Section 245A(b)(1) of the INA no earlier than November 7, 1988.

(j) An alien who is granted lawful temporary resident status pursuant to Section 245A of the INA at least five years prior to applying for food stamps and who subsequently gained lawful permanent resident status pursuant to

Section 245A of the INA. Such aliens may obtain temporary residence status no earlier than May 5, 1987.

(k) An alien who is, as of June 1, 1987, or thereafter, a special agricultural worker and lawfully admitted for temporary residence in accordance with Section 210(a) of the INA.

(l) An alien who is lawfully admitted for temporary residence as an additional special agricultural worker as of October 1, 1989 through September 30, 1993 in accordance with Section 210A(a) of the INA.

.2 Ineligible Aliens (Continued)

.3 Verification (Continued)

.31 Verification of Citizenship (Continued)

.32 Verification of Alien Status

.321 Based on the application, the CWD shall determine if members identified as aliens are eligible aliens, as defined in Sections 63-403.1(b) through (l), by requiring that the household present verification for each alien member. Requirements for the verification of alien status are addressed in Section 63-300.512. (Continued)

.4 Reporting of Illegal Aliens (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code and 7 CFR 273.4(a)(8) through (11).

FILED  
In this office of the Secretary of State  
of the State of California

# OFFICE OF ADMINISTRATIVE CERTIFICATION OF APPROVAL

JUL 21 1988  
4:18 PM  
MARCH FONG EU, Secretary of State  
By [Signature]  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 88-0627-15

[Signature]  
LINDA STOCKDALE BREWER  
DIRECTOR

[Signature]  
Date



FACE SHEET

(See Instructions on Reverse)

88-0630-02

RDB #0587-20

1988 JUN 30 PM 4:00

OFFICE OF  
ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING

JUL 25 1988

Office of Administrative Law

For use of Office of Adm Law

**REGULAR**  
I, \_\_\_\_\_, hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

STATE DEPARTMENT OF SOCIAL SERVICES

(AGENCY)  
*L. S. McNeil*  
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 6/24/88

**FILED**  
In this office of the Secretary of State  
of the State of California

JUL 25 1988  
At 4:30 o'clock P.M.  
MARION FONG EU, Secretary of State  
By *[Signature]*  
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)  
TITLE: Rosalie Clark, Chief, Regulations Development Bureau  
TELEPHONE: (916) 445-0313
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)  
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)  
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:  
Title: MPP  
SECTIONS ADOPTED: 41-701(Title), .1, .2, .22, .23, .24, .3 et seq. and .4 et seq.; 44-206.221  
SECTIONS AMENDED: (Handbook), 41-440.25; 41-600 (Handbook); 41-603.1; 41-605.1, 41-701.21 and  
SECTIONS REPEALED: .221; 44-103.115(a); 44-206.1(f) and .22.  
b. The following sections listed in 3a contain modifications to the text originally made available to the public: 41-600 (Handbook), 44-206.221 (Handbook)
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)  
☐ prior to the emergency adoption  
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?  
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: \_\_\_\_\_
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?  
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: \_\_\_\_\_
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)  
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☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)  
☐ Other \_\_\_\_\_ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER: July 31, 1987  
b. DATE OF FINAL AGENCY ACTION: JUN 30 1988  
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)): Not Applicable
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)  
a. ☐ Effective 30th day after filing with the Secretary of State.  
b. ☐ Effective upon filing with the Secretary of State.  
c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_  
d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.  
e. ☒ Effective on 9-1-88 (Designate effective date *later than* the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

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- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. MCMAHON  
Director

## FINAL STATEMENT OF REASONS

- a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

Current regulations provide that no benefits be paid to principal earners who are participating in a strike. In the case of Reyna v. McMahon it was determined that Manual of Policies and Procedures (MPP) Section 44-206.22 was passed to comply with federal law, and that it does not concern the State-only AFDC-U Program. Therefore, the Department is required to amend its regulations to reflect the court's decision which allows benefits to be paid to strikers and families of strikers provided all other requirements for eligibility exist. It was also determined that families headed by single parents who are on strike are eligible for State-only AFDC-U benefits to the same extent as families with two parents in the home. This means that whether or not a one- or two-parent Assistance Unit is on strike, a family otherwise eligible for State-only AFDC-U shall be entitled to the benefits of that program.

- b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 41-440.25

Specific Purpose:

The specific purpose of this section is to implement a new court mandate that determined that principal earners who are participating in a strike are now eligible for State-only AFDC-U benefits provided all other conditions of eligibility exist. It also provides a cross-reference to the new State-only AFDC-U Program for strikers. This section currently does not allow eligibility to benefits for principal earners who are participating in a strike.

Factual Basis:

This revision is necessary in order to implement the Reyna v. McMahon Court Order.

Handbook Section 41-600

Specific Purpose:

Current regulations provide eligibility to families with "two parents in the home" under the State-only AFDC-U Program. The specific purpose of this amendment is to add "single-parent" families as potentially eligible to State-only AFDC-U benefits.

Factual Basis:

This amendment is necessary to provide eligibility for State-only AFDC-U benefits to single parent families to implement that part of the Reyna v. McMahon Court Order.

Sections 41-603.11, .12, .13 and .14

Specific Purpose:

Current regulations provide eligibility to the State-only AFDC-U Program for families with two parents in the home. The specific purpose of these amendments is to provide that families of single-parent households are potentially eligible to the State-only AFDC-U Program.

Factual Basis:

This is necessary to provide eligibility to State-only AFDC-U benefits for single-parent families to implement the Reyna v. McMahon Court Order.

Final Modification:

Section 41-603.12 has been amended in response to public testimony to identify those parents living in the home who must be unemployed in order to meet the criteria to be eligible to State-only benefits. Sections 41-603.11, .12, and .13 have been restructured for ease of use by CWDs.

This amendment is necessary to provide eligibility to the State-only program for both one- and two-parent families, as mandated in the Reyna v. McMahon Court Order.

Section 41-605.1

Specific Purpose:

Current regulations require that a principal earner cannot refuse an offer of a job within 30 days prior to the

beginning date of aid. This amendment provides that this requirement does not apply to the job from which the applicant/recipient is striking.

Factual Basis:

This amendment is necessary to ensure that strikers are eligible to State-only AFDC-U benefits in accordance with the Reyna v. McMahon Court Order. These families would not be eligible to State-only AFDC-U benefits if the current requirement were applied, however the court order makes them eligible.

Chapter 41-700 and Handbook Section 41-700

Final Modification:

This chapter heading and handbook language has been removed from this filing since the previously filed RDB# 1184-61 (Separation of Federal and State-only AFDC-U) already contains an up-to-date version of this language.

Section 41-701 (Title)

Specific Purpose:

The adoption of this regulation is to provide a title for the State-only Striker Assistance Program requirements.

Factual Basis:

This is necessary to more readily identify these requirements as specific to the Striker Assistance Program.

Section 41-701.1

Specific Purpose:

This regulation is adopted to provide that striker benefits are administered in accordance to the State-only AFDC-U Program except as specified in Section 42-701.

Factual Basis:

This is necessary because strikers are required to meet the State-only AFDC-U Program regulations with the exception of the requirements in the Striker Assistance Program regulations. This is because the Reyna v. McMahon Court Order interpreted the State-only AFDC-U Program law to include strikers.

Section 41-701.2 et seq.

Specific Purpose:

Section 41-701.2 relocates and amends the existing Sections 44-206.221, .222 and .223; and adopts a definition of the term "striker".

Factual Basis:

It is necessary to locate the definition of strike and participation in a strike in the Striker Assistance Program regulations to centralize regulations which pertain to strikers. This maximizes access for users of the Department's Manual of Policies and Procedures. It is necessary to make technical changes to these relocated regulations for readability. In addition, it is necessary to provide a definition to establish a term which distinguishes an applicant or recipient who is participating in a strike on the last day of the month as a "striker." Establishment of this term increases readability and clarity of these regulations.

Final Modification:

Section 41-701.2 has been amended in response to public testimony, to include Subsection 41-701.24, which clarifies the status of an applicant or recipient who is currently participating in a strike as a "striker" if it is anticipated that this individual will be participating in a strike on the last day of the month.

Section 41-701.3 et seq.

Specific Purpose:

Section 41-701.3 specifies the eligibility requirements for the State-only AFDC-U Striker Assistance Program.

Factual Basis:

This is necessary because under current federal regulations, strikers are ineligible for AFDC-U benefits. The court case of Reyna v. McMahon determined that even though strikers are ineligible for AFDC-U under federal law this does not preclude eligibility to the State-only AFDC-U Program. Therefore, the striker status was determined not to result in ineligibility for State-only benefits.

Final Modification:

Section 41-701.3 has been amended in response to public testimony to clarify that existing State-only cases are not eligible for the Striker Assistance Program. This is necessary to clarify that only cases that become federally ineligible due to participation in a strike, are eligible for the Striker Assistance Program.

Section 41-701.4 et seq.

Specific Purpose:

This section is adopted to provide that the State-only 12-consecutive-month period, and the Discontinuance and Notice of Action requirements apply to the Striker Assistance Program.

Factual Basis:

This is necessary because these are State-only AFDC-U Program requirements that apply to the State-only AFDC-U Striker Assistance Program.

Section 44-103.115 (a)(7)

Specific Purpose:

This amendment provides that principal earners who are participating in a strike and do not meet eligibility requirements for unemployment insurance benefits (UIB), should not be referred to EDD to apply for UIB.

Factual Basis:

This amendment is necessary because it would be a futile act to refer strikers to EDD to apply for UIB.

The Reyna v. McMahon Court Order prevents persons from being ineligible to the State-only AFDC-U Program benefits solely because of their participation in a strike. A striker is ineligible to UIB because he/she cannot meet conditions of eligibility for UIB, i.e., being available and actively seeking employment.



## Sections 44-206.1(f) and .22

### Specific Purpose:

These sections are amended to change the intent of Sections 44-206.1(f) and .22. As currently worded these regulations make the entire family ineligible for federal aid when a "parent" in the home participates in a strike. The amendment proposes to make the entire assistance unit ineligible only when the parent who is the "caretaker relative" participates in a strike.

Sections 44-206.1(f) and .22 are being amended to also provide that an eligible assistance unit's grant cannot be reduced because of his/her status as a striker.

The amendment in Section 44-206.1(f) will provide the new cross-reference to the definitions of a strike that are now located in Section 41-701.2.

### Factual Basis:

Current regulations deny federal AFDC to families when the non caretaker relative parent participates in a strike. The amendments to Sections 44-206.1(f) and .22 are necessary to provide federal AFDC-U benefits to these families. Federal law and regulations provide that a family is ineligible for federal AFDC when any caretaker relative is participating in a strike. The federal regulations further limit the definition of caretaker relative to "any parent" for purposes of the striker provisions. Therefore, the striking status of the non caretaker parent does not make the families ineligible.

The additional amendments to Sections 44-206.1(f) and .22 are necessary to implement the part of the Reyna v. McMahon Court Order that provides grants cannot be reduced because the caretaker relative was participating in a strike. It also provides that individuals who are in an eligible assistance unit cannot have their grant reduced because a nonrelated caretaker relative participates in a strike.

### Final Modification:

Sections 44-206.1(f) and .22 have been amended in response to public testimony to provide that ineligibility due to

strike status only affects federally eligible cases. These provisions do not apply to State-only cases. Therefore, State-only recipients may be on strike with no affect on their eligibility.

Sections 44-206.221, .222, and .223

Specific Purpose:

Sections 44-206.221, .222, and .223 are being relocated from Section 44-206.22, and placed with the Striker Assistance Program regulations located in Section 41-701.22.

Factual Basis:

The amendment which relocates all the striker provisions in one section is necessary to provide consistency and avoid confusion for the users of these regulations.

Section 44-206.221

Specific Purpose:

Handbook Section 44-206.221 is being placed in the Manual of Policies and Procedures (MPP) to refer families to the State-only AFDC-U Program when ineligible for federal AFDC benefits.

Factual Basis:

The inclusion of Handbook Section 44-206.221 is necessary in order to ensure that possible eligibility for striker assistance benefits is explored when families are ineligible for federal AFDC-U.

c) Identification of Documents Upon Which Department Is Relying

Sections 10553, 10554, 11201(b), 11201(b)(3), 11250.4, and 11315(a), Welfare and Institutions Code; 45 CFR 233.106; and Reyna v. McMahon, (1986) 180 Cal. App. 3d 220.

d) Testimony Summary and Response

As a result of the September 16, 1987 public hearing, written testimony was received from the following:

- Los Angeles County Department of Public Social Services
- Santa Clara County Department of Social Services

No oral testimony was presented at the public hearing held on September 16, 1987.

The comments have been organized numerically followed by any general comments. The Department's response to each comment, or group of comments, follow.

Sections 41-600 and 41-603

Comment:

Los Angeles County commented that "a statement should be made addressing the issue of an already existing State-only case, such as those resulting from the Simon or Shaw Court Orders, in which a family member goes on strike. The proposed regulations should clarify whether a State-only case could be converted to a Reyna case with a three month limit."

Response:

The Department agrees that a statement should be made addressing the issue of an already existing State-only case, such as those resulting from the Simon or Shaw Court Orders in which a family member goes on strike. Section 41-0701.3 has been amended to clarify that existing State-only cases are not eligible for the Striker Assistance Program.

The Department agrees that these regulations should clarify whether a State-only case could be converted to a Reyna case. Sections 44-206.1 and 44-206.2 have been amended to clarify that only otherwise federally eligible AFDC cases or recipients are eligible for the State-only Assistance Program.

Section 41-440.12 (Amended to Section 41-603.12)

Comment:

Santa Clara County commented that this section as written currently, can be construed to mean that State-only AFDC-U can be established if one of the unemployed parents does not meet federal requirements. It is not stated clearly that if there are two parents in the home, State-only AFDC-

U can only exist if both parents fail to meet the federal requirements. Furthermore, the county provided suggested language which states, "No parents fail to meet the requirements for federal AFDC-U specified under Section 41-440 and ...."

Response:

The Department agrees that these regulations do not clearly state that in two-parent homes, both parents must fail to meet the federal requirements for AFDC-U in order to be eligible to the State-only AFDC-U Program. Section 41-603.12 has been amended to reflect that both parents in the home must meet the requirements in this regulation.

Section 41-701.24

Comment:

Santa Clara County commented that because the definition for "striker" has always been tied to the status on the last day of the month, whether the EW can consider someone a striker until the last day of the month has never been clear. The county suggested the inclusion of a handbook section which states that a person currently on strike shall be anticipated to be on strike on the last day of the month, unless evidence to the contrary is presented.

Response:

The Department agrees that it is not clear in these regulations whether an EW can consider someone a striker until the last day of the month. Section 41-701.2 has been amended to include a provision which directs the county how to treat those applicants or recipients who may be anticipated to be participating in a strike on the last day of the month.

Section 41-701.321

Comment:

Santa Clara County commented that this section does not address the effect on UIB applications as a result of lockouts and suggested a statement be included to address this situation.

Response:

The Department disagrees that a statement regarding lockouts and UIB status needs to be included in these regulations. This section specifically states that "strikers" are not eligible for UIB, and therefore, should not be referred to EDD to apply for UIB benefits. Section 41-701.222 clearly addresses the issue of the status of lockouts as not being considered a strike or participation in a strike. As defined in Section 41-701.222, a person who is participating in a strike due to a lockout is not considered to be participating in a strike. Therefore, it would be incorrect to revise this section as requested in testimony.

Section 44-206.1

Comment:

Los Angeles County commented that for clarity this section should be cross-referenced with Sections 44-203.2 and .3, the definitions for caretaker relatives and other relatives.

Response:

The Department disagrees with the comment that this section should be cross-referenced with Sections 44-203.2 and .3, which define caretaker relative and other relatives. The regulation as currently written is sufficiently clear. The term "caretaker relative" is located in other regulations within the Manual of Policies and Procedures and cross-referencing is not necessary. The term, as being used in this regulation, is no different than its use in other regulations, so it holds no greater weight in its necessity for cross-referencing. Therefore, to cross-reference this regulation, would mean that all other instances of the use of the term would also warrant cross-referencing. This is unnecessary. Therefore, no revision has been made to the regulations in response to this testimony.

Section 44-206.1(f)

Comment:

Santa Clara County commented that it appears that the second sentence, "The person remains ineligible in that month." is not in current regulations and that federal budget unit "FBU" should be amended to assistance unit "AU" in the first line of the section.

Response:

The Department agrees that there was a typographical error in this regulation. This section has been amended as suggested.

The Department agrees with the suggestion to change the term "FBU" to "AU" in this section. This term is used in federal law and regulations. Changing the term from "FBU" to "AU" provides increased understanding and consistency to the regulations. Therefore, the suggested revision has been made in response to the county's testimony.

Section 44-206.22

Comment:

Santa Clara County commented that the first sentence in this section is incomplete and that the word "who" in the third line should be deleted. In addition, the county suggested amending "FBU" to "AU" in the second sentence.

Response:

The Department agrees that the first sentence in this regulation reads as incomplete. The word "who" in the third line has been deleted as recommended, to complete and clarify this regulation.

The Department agrees with the suggestion to change the term "FBU" to "AU" in this section. This term is used in federal law and regulations. Changing the term from "FBU" to "AU" provides increased understanding of and consistency to the regulations. Therefore, the suggested revision has been made in response to the county's testimony.

e) Local Mandate Statement

These regulations contain no mandates which affect local school districts, but do have a mandate on local government. There are no reimbursable costs pursuant to this order because it merely implements the Reyna v. McMahon Court Order. Additionally, the court order has been in effect since October 6, 1983, and there are no new costs beyond those of the order.

f) Statement of Potential Cost Impact on Private Persons or Businesses and the Alternatives Considered

The Department has determined that there will be no cost impact on private persons or businesses as a result of this filing.

SDSS finds that no alternative considered by the Department would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected persons.

g) Small Business Impact Statement

The Department has determined that there will be no cost impact on small businesses as a result of this filing.

h) 15-day Renotice Statement

No renotice was necessary since the only modifications to the regulations were non-substantive and merely editorial corrections.

## UPDATED INFORMATIVE DIGEST

Subsequent to the implementation of the Omnibus Budget Reconciliation Act in January 1982, Aid to Families with Dependent Children (AFDC) families or individuals who were otherwise federally eligible, were denied benefits or had current benefits terminated or reduced because they were participating in a strike.

In 1983, the Reyna v. McMahon suit was filed alleging that SDSS should not deny State-only AFDC-U benefits to strikers and their children, who would otherwise be eligible, based on the language in federal law which provides that strikers are ineligible.

In January 1984, the Court declared the Department's regulation invalid to the extent that it affects eligibility to receive State-only AFDC-U benefits for families with a parent, caretaker relative, or individuals who are participating in a strike.

Current regulations provide that no benefits be paid to principal earners who are participating in a strike. In the case of Reyna v. McMahon it was determined that MPP Section 44-206.22 was passed to comply with federal law, and that it does not concern the State-only AFDC-U Program. Therefore, the Department is required to amend its regulations to reflect the court's decision which allows benefits to be paid to strikers and families of strikers provided all other requirements for eligibility exist. It was also determined that families headed by single parents who are on strike are eligible for State-only AFDC-U benefits to the same extent as families with two parents in the home. This means that whether or not a one- or two-parent assistance unit is on strike, a family otherwise eligible for State-only AFDC-U, shall be entitled to the benefits of that program.



Amend MPP Section 41-440.25 to read:

41-440    FEDERAL AFDC-U:    UNEMPLOYED PARENT PROGRAM                      41-440  
(Continued)

•2    Requirements    to be met in order to establish deprivation due  
to unemployment (Federal AFDC-U) (Continued)

•25    The principal earner shall not be unemployed as a result  
of his/her participation in a strike, as defined in  
Section ~~44-206~~ 41-701.22.    See Section 41-701 for the  
Striker Assistance Program.

HANDBOOK

Authority Cited:    Sections    10553    and    10554,    Welfare    and  
Institutions Code.

Reference:                      Sections    11201    and    11250.4,    Welfare    and  
Institutions Code; 45 CFR 233.106; and Reyna v.  
McMahon (1986) 180 Cal. App. 3rd 220.

Amend Handbook Introduction to Section 41-600 to read:

41-600 STATE-ONLY AFDC-U PROGRAM

41-600

The State-only AFDC-U Program is not a component of the federal AFDC program. This program is a state and county funded program to provide aid ~~for~~ to those needy families in which ~~both the~~ parent(s) ~~are~~ is unemployed and ~~neither parent~~ does not ~~qualifies~~ the family for federal AFDC-U. (Continued)

HANDBOOK

Authority Cited: Sections 10553. and 10554. Welfare and Institutions Code.

Reference: Section 11201(b), Welfare and Institutions Code and Reyna v. McMahon (1985) 180 Cal. App. 3rd 220.

Renumber Sections 41-603.12 and .13 to Sections 41-603.13 and .14, respectively, and amend MPP Sections 41-603.11, .12, and .13 to read:

41-603 DEPRIVATION FOR STATE-ONLY AFDC-U PROGRAM 41-603  
BENEFITS

- .1 The family of an unemployed parent as specified in Section 41-440.1(a), may be eligible for benefits under the State-only AFDC-U Program if the county determines that:

.11 Both parents in the home are unemployed, and

OR

.12 In a home in which one parent lives, that parent is unemployed,

AND

.123 Neither In one- or two- parent ~~can~~ families, no parent living in the home meets the requirements for federal AFDC-U specified under Section 41-440, and

AND

.124 Deprivation is due to the unemployment of the principal earner.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11201(b), Welfare and Institutions Code and Reyna v. McMahon (1986) 180 Cal. App. 3d 220.

Amend MPP Section 41-605.1 to read:

41-605 REFUSAL OF JOB OFFER

41-605

.1 ~~Within 30 days before the beginning of aid,~~ The applicant principal earner for State-only AFDC-U, not including a principal earner applying for Striker Assistance (Section 41-701.33), shall not have within 30 days before the beginning date of aid: (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Reyna v. McMahon (1986) 180 Cal. App. 3rd 220.

Adopt MPP Sections 41-701 (Title), .1, .2, .22, .23, .24, .3 et seq., and .4 et seq.; renumber Sections 44-206.221, .222, and .223, to Sections 41-701.21, .221, and .222, respectively, and amend to read:

41-701     STRIKER ASSISTANCE PROGRAM (Revna v. McMahon)     41-701

.1   Striker benefits shall be administered according to State-only AFDC-U Program (See Section 41-600), except as specified in this chapter.

.2   Definitions Specific to the Strikers' Assistance Program.

.221   A strike includes is defined as any concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees, except as specified in Section 41-701.2232 below.

.22   Participation in a strike is defined as follows:

.2221   An applicant or recipient will be considered to be participating in a strike if he or she has voluntarily stopped or slowed down work or otherwise interrupted the business activities of the employer as part of a concerted activity described in Section 41-701.221 above. When the applicant or recipient has been denied Unemployment Insurance Benefits because he or she has voluntarily left work due to a trade dispute, that person will be considered to be participating in a strike, except as specified in Section 41-701.2232 below.

.2232   Stoppage or slowdown of work by employees in good faith shall not be considered a strike or participation in a strike when a lockout has occurred or when the action was necessitated by an imminent health and safety hazard or abnormally dangerous working conditions at the place of employment as determined by Division of Occupational Safety and Health.

.23   A "Striker" is defined as an apolicant or recipient who, on the last day of the month, is participating in a strike as defined in Sections 41-701.21 and .22.

.24 The county shall anticipate that the individual will be participating in a strike on the last day of the month when:

.241 an applicant or recipient is currently participating in a strike, and

.242 it is expected that the strike will continue.

.3 Eligibility for Striker Assistance

The family that is not an existing State-only AFDC-U case shall be eligible for benefits to strikers under the State-only AFDC-U Program when:

.31 Federal eligibility ceased as the result of participation in a strike as defined in Section 41-701.2, and

.32 The family meets the requirements for State-only AFDC-U specified under Chapter 41-600, except as a direct result of participation in a strike.

.321 Strikers are ineligible for UIB, and should not be referred to EDD to apply for UIB.

HANDBOOK

.33 The striker has not refused an offer of employment within thirty (30) days prior to receiving aid.

.331 The job from which the striker is striking shall not be considered.

.4 Other Requirements to the State-Only AFDC-U Striker Assistance Program

.41 The Strikers Assistance Program shall be time limited as specified in Section 41-607, and

.411 The 12-consecutive-month period shall be established as specified in Section 41-608.

.412 Discontinuance and Notice of Action requirements shall be followed as specified in Section 41-609 and Section 22-022.14.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference:

Sections 11201(b) and 11315(a), Welfare and  
Institutions Code and Reyna v. McMahon (1986)  
180 Cal. App. 3rd 220.

Amend MPP Section 44-103.115(a) to read:

44-103 EXPLORATION OF INCOME POTENTIAL AND INCOME  
VERIFICATION

44-103

.1 County Responsibility

.11 The county is responsible for: (Continued)

.115 (Continued)

(a) (Continued)

(6) Individuals who are fully employed  
(working eight hours a day, forty  
hours per week); or

(7) Individuals who are participating in  
a strike.

Authority Cited: Sections 10553 and 10554, Welfare and  
Institutions Code.

Reference: Section 11201(b)(3), Welfare and Institutions  
Code and Reyna v. McMahon (1986) 180 Cal. App.  
3rd 220.



Amend MPP Section 44-206.1(f) to read:

44-206 PERSONS WHO MUST BE EXCLUDED FROM THE  
ASSISTANCE UNIT (AU)

44-206

- .1 The following persons must be excluded from the assistance unit (even if it would be appropriate to include them under Sections 44-205.4 or .5): (Continued)

(f) Any member of an federally eligible FBY AU, other than the caretaker relative who is the natural or adoptive parent, who is participating in a strike, as defined in Section ~~44-206.2(b)(1), (2) and (3)~~ below 41-701.22, on the last day of the month, shall be ineligible in that month. The person remains ineligible in that month. The person remains ineligible for any subsequent month(s) in which the county can reasonably estimate that such person's participation in the strike will continue through the last day of the month. If aid to such person is discontinued, reduced, or denied because the county estimated that he or she would be participating in a strike on the last day of the month and the applicant or recipient later reports that such person's participation in the strike ceased before the last day of the month, the county shall rescind the discontinuance, reduction, or denial and issue the correct grant.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11250.4, Welfare and Institutions Code and Reyna v. McMahon (1986) 180 Cal. App. 3rd 220.

Amend MPP Section 44-206.22 and include MPP Handbook Section 44-206.221 to read:

44-206 PERSONS WHO MUST BE EXCLUDED FROM THE  
ASSISTANCE UNIT (AU) (Continued)

44-206

.2 The entire family is ineligible for aid payments when:  
(Continued)

.22 A federally eligible caretaker relative who is the natural or adoptive parent living in the home of an aided child or a pregnant woman aided under Section 44-205.62 (one person FBU) is participating in a strike as defined in Section 41-701.22, on the last day of the month. The FBU AU remains ineligible for any subsequent month(s) in which the county can reasonably estimate that participation in the strike will continue through the last day of the month. If aid is discontinued, reduced, or denied because the county estimated that the caretaker relative parent or pregnant woman would be participating in a strike through the last day of the month and the striker later reports that participation in the strike ceased before the last day of the month, the county shall rescind the discontinuance, reduction, or denial and issue the correct grant.

.221 The entire family that is ineligible for aid under Section 44-206.22, may be eligible for benefits under the State-only AFDC-U Programs (see Section 41-701).

HANDBOOK

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11250.4, Welfare and Institutions Code and Reyna v. McMahon (1986) 180 Cal App. 3d 220.

FILED

In this office of the Secretary of State  
of the State of California

JUL 25 1988  
At 4:30 o'clock P.M.  
NATHAN FONG EU, Secretary of State  
By *[Signature]*  
Deputy Secretary of State

# OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-0630-02

*[Signature]*  
LINDA STOCKDALE BREWER  
DIRECTOR

7-25-88  
Date

FACE SHEET

(See Instructions on Reverse)

RDB #0688-21

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 7/15/88

**FILED**  
In this office of the Secretary of State  
of the State of California

AUG 1 1988  
At 4:14 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By *Charles Lee Muech*  
Deputy Secretary of State

ENDORSED  
APPROVED FOR FILING

AUG 01 1988

Office of Administrative Law

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE  
Rosalie Clark, Chief, Regulations Development Bureau (916) 445-0313

2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP SECTIONS ADOPTED: 50-017 et seq.  
SECTIONS AMENDED:  
SECTIONS REPEALED:

- b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

☐ Fair Political Practices Commission (Include FPCC approval stamp) ☐ Building Standards Commission (Attach approval)

☐ State Fire Marshall (Attach approval) ☒ Department of Finance (Attach properly signed Std. 399)

☐ Other \_\_\_\_\_ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER Not Applicable	b. DATE OF FINAL AGENCY ACTION JUL 21 1988	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) Not Applicable
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9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State. (August 1, 1988)
- c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_
- d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on \_\_\_\_\_ (Designate effective date *later than* the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
  - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
  - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
  - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
  - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
  - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
  - If an effective date later than specified above is requested, provide the date.

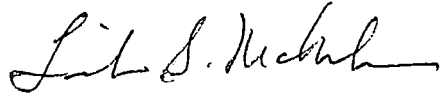
### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director

Adopt Section 50-017 to read:

50-017 RUTAN v. McMAHON RETROACTIVE COURT CASE

50-107

HANDBOOK

.1 Background

The Rutan v. McMahon lawsuit challenged the State Department of Social Services' (SDSS') authority to count a lump sum received by a recipient as income available to meet current and future needs without first providing an adequate and timely explanation of the lump sum rule. On August 20, 1986, the Superior Court for Alameda County ordered SDSS and County Welfare Departments (CWDs) to inform all recipients and applicants of the lump sum rule. The final judgement ordered SDSS to provide retroactive benefits to class members. On February 19, 1988, the Final Order was signed and the provisions of that order are set forth in the following regulations.

.2 Definitions

For purposes of these regulations:

- .21 "Class members" are individuals who received a lump sum on or after June 1, 1983 and as a result had their cash aid reduced, denied or terminated at some time during the retroactive period.
- .22 "Intent to Claim Form" (Temp 1709) means that portion of the Intent to Claim Forms which must be completed, signed and returned to the appropriate CWD to initiate the claim determination process.
- .23 "Claim Form" (Temp 1709A) means the form which must be completed, signed and returned to the appropriate CWD for the determination of a claimant's eligibility for retroactive benefits.
- .24 "Retroactive period" means that period of time between June 1, 1983 and August 26, 1986.
- .25 "Good Cause" means those situations when the claimant's failure to return the Intent to Claim Form (Temp 1709) or the Claim Form (Temp 1709A) was the result of: 1) a mental or physical condition, 2) an error directly attributable to the county, or 3) other extenuating circumstances determined by the county to constitute good cause.

.26 "Mailing CWDs" are those CWDs identified in Subsection 50-017.324 which shall mail Intent to Claim Forms by August 1, 1988 to all potential claimants identified by either manually searching existing files or computer records, or through a specific computer generated report.

.27 "Face to Face" CWDs are those CWDs identified in Subsection 50-017.325 which shall provide Intent to Claim Forms to all recipients at the time of annual redetermination, and to all applicants for AFDC benefits who had previously received such benefits at any time between June 1, 1983 and August 26, 1986.

.28 "Informed" for the purposes of this court case means that the claimant received an adequate Notice of Action or received the Notice required by the preliminary injunction in this case.

.3 Informing Potentially Eligible Persons of the Availability of Retroactive Benefits

.31 In order to notify potentially eligible persons SDSS shall:

.311 Issue posters (Temp 17098) to the CWDs printed in English and Spanish with statements printed in Vietnamese, Laotian, Chinese and Cambodian. The English and Spanish on the poster will inform the general public of the availability of benefits. The statements will translate in substance as "Welfare may owe you money. You may contact your worker for a translation of this notice."

.312 Provide CWDs with reproducible copies of the Intent to Claim Form (Temp 1709) in English and Spanish with statements in Vietnamese, Laotian, Chinese and Cambodian. The statements will translate as "Welfare may owe you money. You may contact your worker for a translation of this notice."

.313 Provide the CWDs with reproducible copies of the Claim Form (Temp 1709A) in English and the five standard languages.

.32 County Responsibilities

.321 All counties shall post the English and Spanish informing posters in conspicuous locations in all



CWD offices. The posters shall be displayed from August 1, 1988 through July 31, 1989.

(a) All counties shall forward a supply of English and Spanish informing posters, supplied by SOSS, to all food stamp issuance outlets within the county with instructions that the posters be displayed in conspicuous locations from August 1, 1988 through July 31, 1989.

.323 The "Mailing" counties identified in Subsection 50-017.324 shall identify all discontinuances and denials as a result of the receipt of lump sum income during the retroactive period through the use of computer generated reports or by manually searching through case records.

.324 The "Mailing" counties shall mail an Intent to Claim Form on or before August 1, 1988 to all potential class members. The "Mailing" counties are:

Alameda, Alpine, Amador, Contra Costa, Del Norte, El Dorado, Fresno, Kern, Madera, Marin, Mendocino, Merced, Modoc, Mono, Monterey, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Bernardino, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Tehama, Tulare, Ventura, and Yuba.

.325 The "Face to Face" counties shall screen all cases at the time of application and at annual redetermination for a one year period August 1, 1988 to July 31, 1989 to determine if there had been a lump sum period of ineligibility or case aid reduction during the retroactive period. The "Face to Face" counties are:

Butte, Calaveras, Colusa, Glenn, Humboldt, Imperial, Inyo, Kings, Lake, Lassen, Los Angeles, Mariposa, Napa, San Benito, San Diego, Shasta, Sierra, Siskiyou, Sutter, Trinity, Tuolumne, and Yolo.

.326 All counties shall reproduce an adequate supply of the English and Spanish Intent to Claim Forms specified in Subsection 50-017.312, and shall give or mail such notices to anyone upon request.

.327 All counties shall reproduce an adequate supply of the Claim Form (Temp 1709A) in English and the five standard languages. The CWD shall give or mail such forms to anyone who has completed the Intent to Claim Form unless it is determined from case records that the claimant is not eligible for retroactive benefits.

.328 If more than one CWD is listed on the Intent to Claim Form, the CWD shall photocopy and forward within 15 working days all claiming documents to each CWD listed and all records in their possession which may affect the claim.

.33 All counties shall designate at least one employee to answer questions concerning this case and to provide assistance in completing the form(s). The name and telephone number of the employee will be listed on the Claim Form.

.4 Application for Retroactive Benefits

.41 Claimant Responsibilities

.411 The claimant shall complete and sign under penalty of perjury the Intent to Claim Form.

(a) A Notice of Intent to Claim Form shall be considered complete when the claimant has provided a name, address, social security number, telephone number, if any and the county they were living in when they received the lump sum payment.

.412 The claimant shall complete and sign, under penalty of perjury, the Claim Form.

(a) A Claim Form shall be considered complete when the claimant has provided a response to the following questions:

(1) The amount of the lump sum payment which was spent before he/she received written notice of the lump sum rule.

(2) How the money was spent.

- (3) The amount of income if any, received in any month of the disqualification period, as originally determined.
- (4) Whether the claimant held non-exempt resources in excess of \$1,000 during the disqualification period.
- (5) The members of the household during the disqualification period.
- (6) The manner in which the family survived during the disqualification period.

.413 The claimant shall submit the Intent to Claim Form to his/her local CWD.

.414 The Intent to Claim Form in the "Mailing" counties (see Subsection 50-017.324) must be submitted to the local CWD 30 days from the date of receipt unless good cause exists where up to an additional 30 days shall be permitted to return the Intent to Claim Form. If the claimant has not been notified by the CWD, the claimant shall have the same period to return the Intent to Claim Form as claimants in the "Face to Face" CWDs.

.415 The Intent to Claim Form in the "Face to Face" counties shall be returned within 30 days unless good cause exists where up to an additional 30 days will be permitted.

.416 The claimant shall return the Claim Form to the responsible CWD no later than 60 days after receipt unless good cause exists where up to an additional 30 days will be permitted.

.417 The claimant shall be permitted to resubmit a previously denied claim or a portion thereof, if the date of resubmittal is within the period an original Claim Form may be submitted.

.42 CWD Responsibilities

.421 In the "Face to Face" counties starting August 1, 1988, the Intent to Claim Form shall be provided to all recipients of AFDC benefits at the time of annual redetermination, and to all applicants for AFDC benefits who had previously received such

benefits at any time between June 1, 1983 and July 31, 1986. CWDs shall document in the case file that the Intent to Claim Form was given.

.422 "Mailing Counties" shall mail Intent to Claim Forms by August 1, 1988. The mailing shall be to all potential class members identified by manually searching computer listings or by generating a specific computer report.

(a) If an Intent to Claim Form is returned as undeliverable, the CWD shall review the Medical Eligibility Data System (MEDS) and food stamp records to determine the most recent address available. The CWD shall then mail to the updated address within 15 working days.

.423 Unless the evidence indicates otherwise, the date of the Claim Form or the Intent to Claim Form is submitted shall be determined as follows:

(a) The postmark date of the envelope when the claim is mailed to the CWD; or

(b) The date stamped on the Claim Form by the CWD, when the claim is delivered in person to the CWD; or

(c) The date the Claim Form was signed by the claimant, when the date cannot be determined by either (a) or (b) above.

.424 Within 30 calendar days after receiving the Intent to Claim Form, the responsible CWD shall make a determination of potential eligibility and provide a Claim Form to any claimant that is not clearly ineligible. If a CWD determines that a claimant is not a class member, it shall send a Notice of Action (NOA) to the claimant advising of its determination and of the claimant's right to request a hearing. If the Intent to Claim Form is returned incomplete, the CWD shall send a NOA to the claimant requesting a completed Intent to Claim Form. If the CWD does not receive a completed Intent to Claim Form within 30 days from the date the claimant received the form the claim shall be denied.

.425 Before providing the Claim Form (Temp 1709A) the CWD shall fill in the following information:

(a) The date(s) upon which the class member received a lump sum;

(b) The date, if any, the county sent the class member written notice of the terms of the lump sum rule;

(c) The period of ineligibility as originally determined.

.426 When an Intent to Claim Form is submitted to the CWD by a claimant, the CWD shall attempt to locate a case record including a Medi-Cal case record for the claimant.

.427 In the event a CWD determines a form was not returned in a timely manner, it shall deny the claim and send a NOA to the claimant advising of its determination and of the claimant's right to request a hearing.

.43 When a Claim Form is returned to the claimant as incomplete and is not returned within 30 days, the CWD shall attempt a personal contact to assist in completing the form before denying the claim as incomplete.

.44 In each case where a claim is filed, the CWD shall maintain all documents until the end of the claim period.

.441 The CWD shall stamp each Claim Form with the date the form was received and shall retain all envelopes that were postmarked after the close of the claim period.

.45 There shall be a rebuttable presumption in the "Mailing" counties that if a claimant's name is on the CWDs' mailing list and the Intent to Claim Form was not returned as undeliverable, that the Intent to Claim Form was timely received.

.46 There shall be no oral screening of potential claimants. This does not preclude CWDs from giving advice from which a potential claimant can conclude whether he/she is eligible or ineligible.

## .5 Claim(s) Processing

- .51 The CWD shall review each Claim Form to determine whether the claimant may be a member of the class and whether the claimant has provided a completed Claim Form pursuant to Subsection 50-017.412.
- .511 The CWD shall request further information or clarification if the form is incomplete or the information is internally inconsistent.
- .512 If the information contained on the Claim Form and the case record is sufficient to verify a claim, the county will compute retroactive benefits in accordance with Subsection 50-017.6.
- .513 Claimants may be requested to supply documentation where such documentation is in the claimant's possession. Where claimants do not have documentation in their possession, they may be asked to sign a Release of Information Form (A3CDM 228), enabling the county to obtain documentation on their behalf. A claim may be denied if the claimant fails to provide documentation in his/her possession or sign the Release of Information Form.
- .514 Where the CWD determines, based upon information in the case record or on the Claim Form that the claimant was ineligible for cash aid due to excess income (other than the lump sum received), or excess property during all or part of the retroactive period, the claim shall be denied for those months.
- .515 If the CWD determines that the claimant is not a member of the class, the CWD shall send a NOA and deny the claim. The CWD shall review all existing records and shall deny the claim if no record can be found that the claimant applied for or received cash aid. This provision applies only when the CWD can certify that a listing of cash aid cases (such as the AFDC payroll or warrant register) was retained in addition to cash aid case records for the time period claimed. In addition, this provision can be applied to claimants who were denied cash aid only when the CWD can certify that existing cash aid case records include all denials.
- .516 Claimants who received an overpayment but failed to timely report the lump sum are not eligible for

retroactive benefits. However, the CWD shall take no further action on the recovery of the overpayment.

.52 If a CWD receives a claim for any period in which the CWD can determine from the Claim Form or the case record that the form has been submitted to the wrong county, the CWD shall:

.521 Forward within 15 working days from the date of receipt, the Claim Form, or a copy thereof, to the correct CWD. A copy of the NOA shall be sent to the claimant indicating the claim period to be processed by the second CWD, when the correct CWD can be determined by the information on the Claim Form or case record. In addition, the CWD shall inform the claimant on that same NOA, that for the period in question, his/her claim has been forwarded to the correct CWD for processing.

.522 For the purpose of establishing a timely submission of a claim, the date the Claim Form was submitted to the first CWD, as determined in Subsection 50-017.423, shall be considered the date of submission to the second CWD.

.523 The CWD shall deny that period claimed in which the correct CWD cannot be determined from the information on the Claim Form. The CWD shall return the Claim Form, or a copy thereof, together with the NOA informing the claimant of the denial and right to a hearing.

.53 If the claimant does not return the Claim Form to the responsible CWD within 60 days from receipt without good cause, the claim shall be denied. The CWD shall send an NOA to the claimant advising of its determination and the claimant's right to a hearing.

.531 If the claimant fails to return the Claim Form but has good cause, the claimant shall be permitted up to an additional 30 days from the date of the good cause determination to return the Claim Form. The Claim Form in no case shall be accepted later than January 31, 1990.

#### .6 Calculation of Retroactive Benefits

.61 The information contained in the case record shall be used to determine the amount of retroactive benefits.

- .62 In the event that the information the claimant has provided on the Claim Form conflicts with the information contained in the CWD's records, the CWD shall use the information contained in the CWD's records to determine the amount of retroactive benefits.
- .63 If case record information is not available or is insufficient, the amount of the retroactive benefit will be calculated using the information on the Claim Form.
- .64 When the case record contains sufficient information or when the retroactive benefits are being computed from the information contained on the Claim Form, the CWD shall determine the amount of the retroactive benefits as follows:
- .641 For each lump sum received in the retroactive period, determine the amount of money which was still available to the claimant when he/she was informed of the lump sum rule. Any money spent by the claimant before he/she was informed of the lump sum rule shall not be counted.
- .642 The amount of money determined in Subsection 50-017.641 shall be divided by the Assistance Unit's (AU's) Minimum Basic Standard of Adequate Care at the time the lump sum was received to determine a new period of ineligibility.
- .643 For each month deducted from the original period of ineligibility (POI) under Subsection 50-017.642, calculate the correct grant when all or part of the lump sum is not counted. See Subsection 50-017.644 for the Maximum Aid Payment (MAP) in the retroactive period.



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.644 Maximum Aid Payments (MAP) in the Retroactive Period

Size of FBU	Maximum Aid Payment				
	6/1/83- 6/30/83	7/1/83- 6/30/84	7/1/84- 6/30/85	7/1/85- 6/30/86	7/1/86- 7/31/86
1	\$ 248	\$ 258	\$ 272	\$ 288	\$ 303
2	408	424	448	474	498
3	506	526	555	587	617
4	601	625	660	698	734
5	686	713	753	796	837
6	771	802	847	895	941
7	846	880	929	982	1,032
8	922	959	1,013	1,071	1,126
9	996	1,036	1,094	1,156	1,215
10 or more	1,071	1,114	1,176	1,243	1,306

.645 Determine the amount of cash aid actually received by the claimant and compare it to the correct grant for each month identified in Subsection 50-017.643.

- (a) If the cash aid received is less than the correct grant, the difference is the retroactive benefits for that month to be paid in accordance with Subsection 50-017.7.
- (b) If the cash aid received is the same as the correct grant and an overpayment was previously calculated for that month due to the receipt of a lump sum, the overpayment shall be voided and any amounts previously recouped shall be considered retroactive benefits to be paid under Subsection 50-017.7.
- (c) If cash aid received is the same as the correct grant(s) and no overpayment was previously calculated or recouped for those months, the claimant is not a class member and the claim shall be denied.

a claim is submitted incomplete where an additional 30 days shall be permitted for processing.

.7 Computation of the Total Retroactive Payment

.71 The CWD shall compute the amount of payable retroactive benefits for each month as follows:

.711 Multiply the amount of monthly retroactive benefit by the appropriate percentage for the month in which payment is authorized, as set forth in Subsection .713(a).

Example

<u>Month of Retroactive Benefit</u>	<u>February 1985</u>	<u>= \$555.00</u>
<u>Interest Percentage to be paid in payment authorization month</u>	<u>x September 1988</u>	<u>= x.3656</u>
	<u>Interest Amount</u>	<u>= \$203.46</u>

.712 Add the amount of the monthly retroactive benefit to the interest as computed in Section 50-017.711 to determine the monthly retroactive payment.

Example

<u>Retroactive Benefit + Interest</u>	<u>=</u>	<u>Retroactive Benefit</u>
<u>\$555.00</u>	<u>\$203.46</u>	<u>\$758.46</u>

.713 Determine the total amount of the retroactive payment by adding together the monthly payments as computed in Section 50-017.712.

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(a) Retroactive Benefit Month - 1983

Payment Authorization Month	6/83	7/83	8/83	9/83	10/83	11/83	12/83
8/88	.5258	.5175	.5090	.5005	.4923	.4838	.4756
9/88	.5340	.5258	.5173	.5088	.5005	.4921	.4838
10/88	.5425	.5342	.5258	.5173	.5090	.5005	.4923
11/88	.5507	.5425	.5340	.5255	.5173	.5088	.5005
12/88	.5592	.5510	.5425	.5340	.5258	.5173	.5090
1/89	.5677	.5595	.5510	.5425	.5342	.5258	.5175
2/89	.5753	.5671	.5586	.5504	.5419	.5334	.5252
3/89	.5838	.5756	.5671	.5589	.5504	.5419	.5337
4/89	.5921	.5838	.5753	.5671	.5586	.5501	.5419
5/89	.6005	.5923	.5838	.5756	.5671	.5586	.5504
6/89	.6088	.6005	.5921	.5838	.5753	.5668	.5586
7/89	.6173	.6090	.6006	.5921	.5838	.5753	.5671
8/89	.6258	.6175	.6090	.6006	.5923	.5838	.5756
9/89	.6340	.6257	.6173	.6088	.6006	.5921	.5838
10/89	.6425	.6342	.6258	.6173	.6090	.6006	.5923
11/89	.6507	.6425	.6340	.6255	.6173	.6088	.6006

(b) Retroactive Benefit Month - 1984

Payment Authorization Month	1/84	2/84	3/84	4/84	5/84	6/84	7/84	8/84	9/84	10/84	11/84	12/84
8/88	.4671	.4586	.4507	.4422	.4340	.4255	.4173	.4088	.4003	.3921	.3836	.3753
9/88	.4753	.4668	.4589	.4504	.4422	.4337	.4255	.4170	.4085	.4003	.3918	.3836
10/88	.4838	.4753	.4674	.4589	.4507	.4422	.4340	.4255	.4170	.4088	.4003	.3721
11/88	.4921	.4836	.4756	.4671	.4589	.4504	.4422	.4337	.4252	.4170	.4085	.4003
12/88	.5005	.4921	.4841	.4756	.4674	.4589	.4507	.4422	.4337	.4255	.4170	.4088
1/89	.5090	.5005	.4926	.4841	.4759	.4674	.4592	.4507	.4422	.4340	.4255	.4173
2/89	.5167	.5082	.5003	.4918	.4836	.4751	.4668	.4584	.4499	.4416	.4332	.4252
3/89	.5252	.5167	.5088	.5003	.4921	.4836	.4753	.4668	.4584	.4501	.4416	.4337
4/89	.5334	.5249	.5170	.5085	.5003	.4918	.4836	.4751	.4666	.4584	.4499	.4419
5/89	.5419	.5334	.5255	.5170	.5088	.5003	.4921	.4836	.4751	.4668	.4584	.4504
6/89	.5501	.5416	.5337	.5252	.5170	.5085	.5003	.4918	.4833	.4751	.4666	.4586
7/89	.5586	.5501	.5422	.5337	.5255	.5170	.5088	.5003	.4918	.4836	.4751	.4669
8/89	.5671	.5586	.5507	.5422	.5340	.5255	.5173	.5088	.5003	.4921	.4836	.4753
9/89	.5753	.5669	.5589	.5504	.5422	.5337	.5255	.5170	.5085	.5003	.4918	.4836
10/89	.5838	.5753	.5674	.5589	.5507	.5422	.5340	.5255	.5170	.5088	.5003	.4921
11/89	.5921	.5836	.5756	.5671	.5589	.5504	.5422	.5337	.5252	.5170	.5085	.5003

(c) Retroactive Benefit Month - 1985

Payment Authorization Month	1/85	2/85	3/85	4/85	5/85	6/85	7/85	8/85	9/85	10/85	11/85	12/85
8/88	.3668	.3584	.3507	.3422	.3340	.3255	.3173	.3088	.3003	.2921	.2836	.2753
9/88	.3751	.3666	.3589	.3504	.3422	.3337	.3255	.3170	.3085	.3003	.2918	.2836
10/88	.3836	.3751	.3674	.3589	.3507	.3422	.3340	.3255	.3170	.3088	.3003	.2921
11/88	.3918	.3833	.3756	.3671	.3589	.3507	.3422	.3337	.3252	.3170	.3085	.3003
12/88	.4003	.3918	.3841	.3756	.3674	.3592	.3507	.3422	.3337	.3255	.3170	.3088
1/89	.4088	.4003	.3926	.3841	.3759	.3677	.3592	.3507	.3422	.3340	.3255	.3173
2/89	.4164	.4079	.4003	.3918	.3836	.3753	.3668	.3584	.3499	.3416	.3332	.3249
3/89	.4249	.4164	.4088	.4003	.3921	.3838	.3753	.3668	.3584	.3501	.3416	.3334
4/89	.4332	.4247	.4170	.4085	.4003	.3921	.3836	.3751	.3666	.3584	.3499	.3416
5/89	.4416	.4332	.4255	.4170	.4088	.4003	.3921	.3836	.3751	.3668	.3584	.3501
6/89	.4499	.4414	.4337	.4252	.4170	.4085	.4003	.3918	.3833	.3751	.3666	.3584
7/89	.4584	.4499	.4422	.4337	.4255	.4170	.4088	.4003	.3918	.3836	.3751	.3669
8/89	.4669	.4584	.4507	.4422	.4340	.4255	.4173	.4088	.4003	.3921	.3836	.3753
9/89	.4751	.4666	.4589	.4504	.4422	.4337	.4255	.4170	.4085	.4003	.3918	.3836
10/89	.4836	.4751	.4674	.4589	.4507	.4422	.4340	.4255	.4170	.4088	.4003	.3921
11/89	.4918	.4833	.4756	.4671	.4589	.4504	.4422	.4337	.4252	.4170	.4085	.4003

(d) Retroactive Benefit Month - 1986

Payment Authorization Month	1/86	2/86	3/86	4/86	5/86	6/86	7/86
8/88	.2668	.2584	.2507	.2422	.2340	.2255	.2173
9/88	.2751	.2666	.2589	.2504	.2422	.2337	.2255
10/88	.2836	.2751	.2674	.2589	.2507	.2422	.2340
11/88	.2918	.2833	.2756	.2671	.2589	.2504	.2422
12/88	.3003	.2918	.2841	.2756	.2674	.2589	.2507
1/89	.3088	.3003	.2926	.2841	.2759	.2674	.2592
2/89	.3164	.3079	.3003	.2918	.2836	.2751	.2668
3/89	.3249	.3164	.3088	.3003	.2921	.2836	.2753
4/89	.3332	.3247	.3170	.3085	.3003	.2918	.2836
5/89	.3416	.3332	.3255	.3170	.3088	.3003	.2921
6/89	.3499	.3414	.3337	.3252	.3170	.3085	.3003
7/89	.3584	.3499	.3422	.3337	.3255	.3170	.3088
8/89	.3669	.3584	.3507	.3422	.3340	.3255	.3173
9/89	.3751	.3666	.3589	.3504	.3422	.3337	.3255
10/89	.3836	.3751	.3674	.3589	.3507	.3422	.3340
11/89	.3918	.3833	.3756	.3671	.3589	.3504	.3422

.72 Retroactive benefits received shall not be used to offset an overpayment incurred before February 20, 1985.

.73 Retroactive benefits received shall not be considered income or as a resource in the month received and the following month.

.8 Statistical Reporting

.81 The "Mailing" CWDs identified in Subsection 50-017.324 shall submit to SDSS:

.811 A statistical report no later than November 7, 1988 indicating:

(a) How many Intent to Claim Forms were mailed out;

(b) If the county mailed to an overinclusive class of persons; and

(c) A description of the class of persons to which Intent to Claim Forms were mailed.

.812 A final statistical report no later than May 8, 1989 indicating:

(a) The total number of Intent to Claim Forms provided to claimants;

(b) The number of Claim Forms provided to claimants;

(c) The number of claims received;

(d) The number of claims denied as untimely;

(e) The number of claims denied as incomplete;

(f) The number of claims denied because the claimant was not a member of the class;

(g) The number of claims denied because the claimant was not substantively eligible for retroactive benefits; and

(h) The number of claims granted in whole or part (a claim paid in part shall not be considered a denial).

.82 The "Face to Face" CWDs specified in Subsection 50-017.325 shall submit to SSSS:

.821 Three reports submitted on a quarterly basis with the first report due November 7, 1988 which state for each month:

(a) The number of Intent to Claim Forms provided to the claimants;

(b) The number of Intent to Claim Forms returned to the CWD; and

(c) The number of Claim Forms distributed.

.822 The fourth report due August 7, 1989 shall contain the same information as the final report of the "Mailing" CWDs (see Subsection 50-017.81).

.823 The fifth and final report due February 7, 1990 shall be an updated version of the "Face to Face" CWDs fourth report.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Rutan v. McMahon Class Action Stipulated Judgement and Order Approving Settlement Regarding: Retroactive Relief-February 19, 1988.

REGULAR FACE SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

7/5/88

FILED

In this office of the Secretary of State  
of the State of California

AUG 5 1988

At 3:51 o'clock P.M.

MARCH-FONG EU, Secretary of State

By Andrea Waymire  
Deputy Secretary of State

1988 JUL -6 11:11:48  
OFFICE OF  
ADMINISTRATIVE LAW  
ENDORSED  
APPROVED FOR FILING  
AUG 05 1988

Office of Administrative Law  
For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie Clark, Chief Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)

☒ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)

☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

30-027, 30-027.1, 30-027.21, 30-027.3

SECTIONS AMENDED:

SECTIONS REPEALED:

10-300, 10-301, 10-302, 10-303, 10-305

b. The following sections listed in 3a contain modifications to the text originally made available to the public: 30-027, 30-027.1, 30-027.21 and 30-027.3

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

☐ prior to the emergency adoption

☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☐ No ☒ Yes, if yes, give date statement was submitted to OAL March 1983 (SORC File NO. 3-83-01)

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

☐ Fair Political Practices Commission (Include FPPC approval stamp)

☐ Building Standards Commission (Attach approval)

☐ State Fire Marshall (Attach approval)

☐ Department of Finance (Attach properly signed Std. 399)

☐ Other

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER

b. DATE OF FINAL AGENCY ACTION

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))

7/17/87

7/5/88

4/4/88 to 4/22/88

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. ☒ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective upon filing with the Secretary of State.

c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_

d. ☐ Effective on \_\_\_\_\_ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)

Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

e. ☐ Effective on \_\_\_\_\_ (Designate effective date later than the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
- b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
- c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
- b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
- c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
- d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
- e. If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

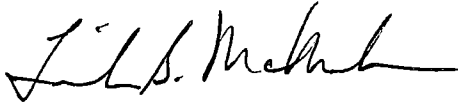
The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)



DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in dark ink, appearing to read "L.S. McMahon", with a stylized, flowing script.

LINDA S. McMAHON  
Director

Amend Sections 10-300 and 10-301; and renumber to MPP Sections 30-027 and 30-027.1 to read:

~~10-300~~ FUNDING AND EXPENDITURES

~~10-300~~

~~10-301~~30-027 FUNDING, COST SHARING AND ALLOWABLE  
EXPENDITURES

~~10-301~~30-027

.1 Funding

.11 Federal and state financial participation is available for expenditures related to services provided and individuals served in accordance with provisions of EASP as follows: administrative costs incurred in providing the social services as defined in Division 30 and as contained in the county's SDSS-approved plan (see MPP Section 10-130). Counties expenditures for administrative costs for services defined in Division 30 are subject to audit.

.11 Service costs, other than family planning services, less fees collected, and personnel training and retraining directly related to the provision of services under the services plan: 75 percent.

.12 Costs, less fees collected, of family planning services provided under the services plan: 90 percent. Counties shall continue to provide matching funds for county-administered social service programs as required by Welfare and Institutions Code Sections 10100 and 10101.

HANDBOOK

Pilot projects may require a different county share of the administrative costs.

.13 Effective July 1, 1980, service costs under Title IV-A to the extent permitted by federal law and the state budget act.

.213 No federal financial participation is provided if the limitations designated in Division 10 and 30 or specified in EASP the county's SDSS-approved social services plan are exceeded in respect to service goals, service activities, or use of service funded resources.

.3 When the child/family is eligible for Emergency Assistance-Abused, Neglected or Exploited Children (EA-ANEC) services, county welfare departments shall use Title IV-A

Emergency Assistance funds in accordance with 10-330 for services delivered under provisions of 30-100 and 30-200.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Sections 10100, 10101, 10600, 13002, Welfare and Institutions Code; 42 USC Section 1397 a ; 45 CFR 1357.30(e); and Public Law (PL) 98-502 (Single Audit Act of 1984).

Repeal Section 10-302 and adopt Section 30-027.2 to read:

30-027 FUNDING AND EXPENDITURES (Continued)

30-027

10-302.2 Funds Available for Matching COST SHARING

State or county funds used by a Primary for its services program and administrative functions may be considered as the state share in claiming federal financial participation only where such funds are:

- 1 Appropriated directly to the Primary.
- 2 Funds of another public agency which are any of the following:
  - 21 Transferred to the Primary and under its administrative control.
  - 22 Certified by the contributing public agency as representing expenditures for services eligible for federal financial participation.
  - 23 Representative of value of the actual goods or property provided by a public agency even if the agency does not incur any current expenditures for such goods or property during the period of their use in the services program.
- 3 Donated funds from private sources which are:
  - 31 Transferred to the Primary and under its administrative control.
  - 32 Donated to the Primary without restrictions as to user other than those restrictions imposed by the donor who:
    - 321 Shall not be a sponsor or operator of a program to provide such services.
    - 322 May impose restrictions on usage of funds donated for services, administration or training.
    - 323 May designate the geographical area in which the services are to be provided.

•13 Not used to purchase services from the donor unless the donor is a nonprofit organization or an Indian tribe and it is an independent decision of the state agency or Primary to purchase services from the donor.

•21 State or county funds used by a county to provide SDSS-approved social services may be considered as the nonfederal share in claiming federal financial participation (FFP), when such funds are as described in 45 CFR, Part 74, Subpart G, "Cost Sharing or Matching."

HANDBOOK

•211 Nonpublic third party in-kind contributions shall not be used for the required nonfederal share of the costs of child welfare services or of the Adult Programs Services (Out-of-Home Care, Information and Referral, and Adult Protective Services). However, such contributions may be used to reduce program costs or to expand the services provided.

HANDBOOK

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: 45 CFR 1357.30(e) and 45 CFR Part 74 Subpart G.

Repeal Section 10-303:

10-303 ~~FUNDS NOT AVAILABLE FOR MATCHING~~

10-303

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~~Public funds used by the Primary for its services programs shall not be used as the Primary's share in claiming federal financial participation where such funds are:~~

- ~~.1 Federal funds not authorized by federal law to be used to match other federal funds.~~
- ~~.2 Used to match other federal funds.~~

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 10553, Welfare and Institutions Code.

Repeal Section 10-305:

10-305 EXPENDITURES

10-305

The following defines categories of expenditures that are allowable and those not allowable for federal financial participation for the overall administration of the service programs defined in Division 30 and described in CASP.

- .1 Expenditures allowable for federal or state financial participation include:
  - .11 Salary, fringe benefits and travel costs of staff engaged in carrying out service work or service-related work.
  - .12 Service related expenses, including furniture, equipment, supplies, communications and office space.
  - .13 Advisory committee expenses of members attending meetings, supportive staff and other technical assistance.
  - .14 Agency staff attendance at meetings pertinent to the development or implementation of federal and state service policies and programs.
  - .15 Agency use of volunteers in program.
  - .16 Costs for operation of agency facilities used solely for the provision of services. Appropriate distribution of costs shall be made when other agencies also use such facilities in carrying out their functions.
  - .17 Administrative support activities furnished by other public agencies or other units within the service delegate which are properly cost allocated.
  - .18 Technical assistance, data collection, surveys and studies performed by other public agencies, private organizations or individuals to assist the agency in developing, planning, monitoring and evaluating the services program.
  - .19 Public liability and other insurance protection.
- .2 Expenditures not allowable for federal or state financial participation:

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- .21 Any maintenance assistance payments functions or any other functions or activities which are not related to services as defined in the Division 30.
- .22 The purchase, construction or major modification of any land, building or other facility, or fixed equipment.
- .23 Housing costs for families and individuals, including rent, utilities, deposits, purchase, construction, major renovation or repair.
- .24 Goods or services provided in-kind by a private organization.
- .25 Sabbatical leave.
- .26 Retroactive payment to agencies for services. Recipients may be reimbursed retroactively within allowable maximums for costs incurred for services.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 10553, Welfare and Institutions Code.



Adopt MPP Section 30-027.3 to read:

30-027 Funding and Expenditures (Continued)

30-027

.3 Allowable Expenditures

Expenditures allowable are subject to the availability of funds and to federal and state conditions and restrictions. Those programs funded only by state and county monies, such as the Adult Protective Services Program, must meet the requirements of Welfare and Institutions Code, Division 9, Part 3, Chapters 5.1 and 13. Adult Services Demonstration Projects must meet the requirements of Welfare and Institutions Code, Division 9, Part 3, Chapter 12.

Following are the conditions and restrictions on allowable expenditures for social services programs.

- .31 The general principles used in determining allowable administrative costs are identified in 45 CFR, Part 74, Subpart Q. Costs allowable to a county welfare department are not necessarily the same as those allowable to an organization with which a county may contract. Following are the publications which specify the administrative cost principles by type of organization.

- o for local government, Office of Management and Budget (OMB) Circular A-87.
- o for public and nonprofit institutions of higher learning, OMB Circular A-21.
- o for nonprofit agencies, OMB Circular A-122.
- o for profit-making organizations, 48 CFR, Subpart 31.

- .311 Each set of the above cost principles identifies certain costs that are allowable, unallowable, or allowable with prior approval.

- .312 Examples of allowable county welfare department administrative costs are listed below:

- o salaries, fringe benefits and travel of staff engaged in carrying out services or service-related activities.

- o service-related materials, supplies, and communications.
- o expenses for attending meetings incurred by advisory committee members, supportive staff and other technical assistance staff.
- o expenses incurred by agency staff in attending meetings pertinent to the development or implementation of federal and state policies and programs.

.313 Examples of unallowable county welfare department administrative costs follow:

- o interest and other financing costs (However, interest expenses incurred in acquiring a building is allowed through the use of a rental rate system. See section 3129 of the State Controllers Handbook of Cost Plan Procedures for California counties).
- o contingency reserves
- o entertainment expenses
- o salaries of county supervisors

.314 Examples of county welfare department administrative costs allowable only with prior State approval follow:

- o automated data processing equipment.
- o alterations that materially increase the value or useful life of facilities.
- o space occupied under a lease with option-to-purchase agreement.
- o management studies conducted by organizations other than the county welfare department.

.32 Limitations on allowable administrative expenditures are specified in regulations specific for each program's funding source.

- .321 For child welfare services funded by Title IV B, the purchase, construction, or other capital costs for child care facilities are specified as unallowable in 45 CFR Part 1357.30.
- .322 For social services funded under Title XX, the following expenditures are specified as unallowable (42 USCA 1397):
  - o social services provided in and by employees of any hospital, skilled nursing facility, intermediate care facility, or prison, except services to an alcoholic or drug dependent individual.
  - o educational service generally available without cost and without regard to income.
  - o child care services which do not meet applicable state and local standards.
  - o cash payment as a service (e.g. restaurant meal allowances).
  - o cash payments for subsistence costs or for board and room. [However, short-term costs are allowable, if they are an integral but subordinate part of a social service (e.g. temporary shelter provided as a protective service)].
  - o payment of wages as a social service (e.g. In-Home Supportive Service funds cannot be used to pay the wages of a recipient for employment purposes).
- .323 For social services funded under Title XX, the following expenditures are specified as allowable with waiver from DHHS (42 USCA 1397):
  - o purchase or improvement of land or purchase, construction or major permanent improvement of any building or facility.
  - o medical care (Unless it is an integral but subordinate part of a social service, e.g. initial detoxification of an alcoholic or drug dependent individual).

OFFICE OF ADMINISTRATIVE LAW  
CERTIFICATION  
OF  
APPROVAL

FILED

In this office of the Secretary of State  
of the State of California

AUG 5 1988

At 3:51 o'clock P. M.

MARCH FONG EU, Secretary of State

By Andrea Weber

Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking  
file identified below were reviewed and approved by the Director of the  
Office of Administrative Law in the city of Sacramento, state of  
California.

Submitting Agency: Department of Social Services

DAL File No: 88-0706-01

  
for LINDA STOCKDALE BREWER  
DIRECTOR

8/5/88

Date

88-0718-03

(See Instructions on Reverse)

FACE SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

RDB #0387-11

1988 JUL 18 PM 4:10  
OFFICE OF  
ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

**FILED**  
In this office of the Secretary of State  
of the State of California

ENDORSED  
APPROVED FOR FILING  
AUG 17 1988

Department of Social Services

(AGENCY)

*L. S. Mahab*

AGENCY OFFICER WITH RULEMAKING AUTHORITY

AUG 17 1988  
At 3:50 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By *Patricia Bates*  
Deputy Secretary of State

Office of Administrative Law

For use of Office of Adm Law

Date: 7/15/88

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie Clark, Chief Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)

☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)

☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title 22

SECTIONS ADOPTED:

80058; 80059; 87055; 87056; 87456<sup>310</sup>, and 87457<sup>311</sup>

SECTIONS AMENDED:

80001; 80005; 80006; 80018 (c) (17); 80040; 87001; 87005; 87006;

SECTIONS REPEALED:

87018; 87040; 87107<sup>6</sup>; 87108<sup>2</sup>; 87106 and 87340<sup>414</sup>

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

☐ prior to the emergency adoption

☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

☐ Fair Political Practices Commission (Include FPPC approval stamp)

☐ Building Standards Commission (Attach approval)

☐ State Fire Marshall (Attach approval)

☐ Department of Finance (Attach properly signed Std. 399)

☐ Other

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER

b. DATE OF FINAL AGENCY ACTION

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))

July 31, 1987

July 18, 1988

N/A

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. ☒ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective upon filing with the Secretary of State.

c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s):

d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)

Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

e. ☐ Effective on \_\_\_\_\_ (Designate effective date *later than* the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

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- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
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- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
  - b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
  - c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
  - b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
  - c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
  - d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
  - e. If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director

Amend and renumber Section 80001(a) to read:

80001 DEFINITIONS (Continued)

80001

(a) Continued

(49) "Unlicensed Community Care Facility" means a facility as defined in Health and Safety Code Section 1503.5.

(A) Health and Safety Code Section 1503.5 provides:

A facility shall be deemed to be an "unlicensed community care facility" and "maintained and operated to provide nonmedical care" if it is unlicensed and not exempt from licensure and any one of the following conditions is satisfied:

(1) The facility is providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(2) The facility is held out as or represented as providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(3) The facility accepts or retains residents who demonstrate the need for care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(4) The facility represents itself as a licensed community care facility.

(B) A facility which is "providing care and supervision" as defined in Section 80001(a)(10) includes, but is not limited to, one in which an individual has been placed by a placement agency or family members for temporary or permanent care.

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(C) A facility which is "held out as or represented as providing care or supervision" includes, but is not limited to:

- (1) A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.
- (2) A facility where a change of ownership has occurred and the same clients are retained.
- (3) A licensed facility that moves to a new location.
- (4) A facility which advertises as providing care and/or supervision.

(D) A facility which "accepts or retains residents who demonstrate the need for care or supervision" includes, but is not limited to:

- (1) A facility with residents requiring care and/or supervision, even though the facility is providing board and room only, or board only, or room only.
- (2) A facility which houses unemancipated minors, even though the facility is providing board and room only, or board only, or room only.
- (3) A facility where it is apparent that care and/or supervision are being provided by virtue of the client's needs being met.

(4950) (Continued)

(501) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference:

Sections 1501, 1502, 1503, 1503.5, 1505, 1507,  
1508, 1509, 1511, 1520, 1522, 1524, 1525,  
1525.5, 1526, 1527, 1529, 1530, 1530.5, 1531,  
1533, 1534, 1536.1, 1537, 1550, 1551 and  
11834.11, Health and Safety Code; and Section  
11006.9, Welfare and Institutions Code.

Amend Section 80005 to read:

80005      LICENSE REQUIRED (Continued)

80005

- (a) Unless a facility is exempt from licensure as specified in Section 80007, no adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or maintain a community care facility, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the licensing agency.

Authority Cited:    Section 1530, Health and Safety Code.

Reference:           Sections 1505, 1508, 1509, 1513, and 1531,  
Health and Safety Code.

Amend Section 80006 to read:

80006 OPERATION WITHOUT A LICENSE (Continued)

80006

- (a) If an unlicensed facility is providing care and supervision as defined in Section ~~80001(a)(10)~~, 80001(a)(49), the facility is in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code unless exempted from licensure pursuant to Section 80007.
- (b) If the facility is alleged to be in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code, the licensing agency shall conduct a site visit and/or evaluation of the facility pursuant to Health and Safety Code Section 1538. (Continued)
- (c) (Continued)
- (d) The licensing agency shall have the authority to issue an immediate civil penalty pursuant to Section 80058 and Section 1547 of the Health and Safety Code.

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- (1) Section 1547 of the Health and Safety Code provides in part:

Notwithstanding any other provision of this chapter, any person who violates Section 1503.5 or 1508, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars (\$200) per day of violation.

The civil penalty shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the licensure application is denied and the operator continues to operate the unlicensed facility.

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- (e) Sections 80006(c) and (d) shall be applied pursuant to Section 1549 of the Health and Safety Code.

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- (1) Section 1549 of the Health and Safety Code states:

The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the department to enforce this chapter.

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(f) The licensing agency shall notify the appropriate placement or protective service agency if either of the following conditions exist:

- (1) There is an immediate threat to the clients' health and safety.
- (2) The facility does not submit an application for licensure within 15 calendar days of being served a notice of operation in violation of law.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1503.5, 1505, 1508, 1533, and 1538, 1540, 1540.1, 1541, 1547, and 1549, Health and Safety Code.

Amend Section 80018(c)(17) to read:

80018 APPLICATION FOR LICENSE (Continued)

80018

(c) The application and supporting documents shall contain the following: (Continued)

(17) Such other information as may be required pursuant to Section 1520(fg) of the Health and Safety Code.

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(A) Health and Safety Code Section 1520(fg) provides:

~~Such~~ Any other information as which may be required by the ~~State~~ department for the proper administration and enforcement of this chapter.

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Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1520, 1522, 1528, 1531, and 1560, Health and Safety Code.

Amend Section 80040 to read:

80040      DENIAL OF INITIAL LICENSE (Continued)      80040

- (a) Except as specified in Section 80030, which provides for issuance of a provisional license based upon substantial compliance and urgent need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulation.

(1) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section 90058 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.

(±2) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1520, 1525, 1526, and 1528, 1547, and 1543, Health and Safety Code.

Adopt new Section 80058 to read:

80058 UNLICENSED FACILITY PENALTIES

80058

(a) A penalty of \$200 per day shall be assessed for the operation of an unlicensed facility under either of the following conditions:

(1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of Law pursuant to Section 80006, and continues to operate.

(A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 80018.

(B) The completed application shall be deemed to be submitted when received by the licensing agency.

(2) Unlicensed operation continues after denial of the initial application.

(A) Notwithstanding any appeal action, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(b) The \$200 per day penalty shall be assessed for the continued operation of an unlicensed facility as follows:

(1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.

(A) The \$200 per day penalty shall continue until the operator ceases operation, or submits a completed application pursuant to Sections 80058(a)(1)(A) and (B).

(2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.



(A) The \$200 per day penalty shall continue until the operator ceases operation.

(c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation, as defined in Section 1503.5 of the Health and Safety Code, has ceased, the penalty shall cease as of the day the licensing agency receives the notification.

(1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.

(2) Notwithstanding (d) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.

(d) All penalties shall be due and payable upon receipt of the Notice for Payment from the licensing agency, and shall be paid by check or money order made payable to the agency indicated in the notice.

(e) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.

(f) Payment of civil penalties or application for licensure in response to a citation under this section do not permit the operation of a community care facility without a license.

(1) Section 1508 of the Health and Safety Code provides in part:

No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a community care facility in this state, without a current valid license therefor as provided in this chapter.

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Authority Cited: Section 1530, Health and Safety Code.

Reference:

Sections 1503.5, 1508, 1520, 1533, 1538, 1540,  
1540.1, 1541, 1547, and 1549, Health and Safety  
Code.

Adopt new Section 80059 to read:

- 80059      UNLICENSED FACILITY ADMINISTRATIVE APPEAL      80059
- (a) An unlicensed facility operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.
- (1) If the unlicensed facility operation has not ceased, the \$200 per day penalty shall continue to accrue during the appeal process.
- (b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.
- (c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1503.5, 1508, 1547, and 1548, Health and Safety Code.

Amend and renumber Section 87001(a) to read:

87001 DEFINITIONS (Continued)

87001

(a) (Continued)

(38) "Unlicensed Community Care Facility" means a facility as defined in Health and Safety Code Section 1503.5.

(A) Health and Safety Code Section 1503.5 provides:

A facility shall be deemed to be an "unlicensed community care facility" and "maintained and operated to provide nonmedical care" if it is unlicensed and not exempt from licensure and any one of the following conditions is satisfied:

- (1) The facility is providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (2) The facility is held out as or represented as providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (3) The facility accepts or retains residents who demonstrate the need for care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (4) The facility represents itself as a licensed community care facility.

(B) A facility which is "providing care and supervision" as defined in Section 87001(a)(7) includes, but is not limited to, one in which an unemancipated minor has been placed for temporary or permanent care.

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(C) A facility which is "held out as or represented as providing care and supervision" includes, but is not limited to:

(1) A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.

(2) A facility where change of ownership has occurred and the same clients are retained.

(3) A licensed facility that moves to a new location.

(4) A facility which advertises as providing care and supervision.

(D) A facility which "accepts or retains residents who demonstrate the need for care and supervision" includes, but is not limited to a facility which houses unemancipated minors, even though the facility is providing board and room only, or board only, or room only.

(3939) (Continued)

(3940) (Continued)

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501, 1502, 1503.5, 1505, 1507, 1507.5, 1520, 1522, 1524, 1525.1, 1526, 1526.5, 1527, 1530, 1530.5, and 1531, 1531.5, 1533, 1534, 1536.1, 1537, 1550, 1551, and 11834.11, Health and Safety Code.

Amend Section 87005 to read:

87005      LICENSE REQUIRED (Continued)

87005

Unless a home is exempt from licensure as specified in Section 87007, no individual shall operate, establish, manage, conduct or maintain a foster family home, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the licensing agency.

Authority Cited:    Sections 1530 and 1530.5, Health and Safety Code.

Reference:           Sections 1501, 1503.5, 1505, 1508, 1509, 1513, and 1531, Health and Safety Code.

Amend Section 87006 to read:

87006 OPERATION WITHOUT A LICENSE (Continued)

87006

- (a) If ~~a~~An unlicensed home ~~is providing care and supervision~~ as defined in Section 87001(a)(~~738~~), the home is in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code unless exempted from licensure pursuant to Health and Safety Code Section 1505 or Section 87007.
- (b) If the home is alleged to be in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code, the licensing agency shall conduct a site visit, and/or an evaluation of the home pursuant to Health and Safety Code 1533 and 1538.

- (1) Health and Safety Code Section 1538(c) provides in part:

Upon receipt of a complaint, other than a complaint alleging denial of a statutory right to access to a community care facility, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

- (c) (Continued)

- (d) The licensing agency shall issue an immediate civil penalty pursuant to Section 87055 and Section 1547 of the Health and Safety Code.

- (1) Section 1547 of the Health and Safety Code provides in part:

Notwithstanding any other provision of this chapter, any person who violates Section 1503.5 or 1508, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars (\$200) per day of violation.

The civil penalty shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the licensure application is denied and the operator continues to operate the unlicensed facility.

- (e) Sections 87006(c) and (d) shall be applied pursuant to Section 1549 of the Health and Safety Code.

- (1) Section 1549 of the Health and Safety Code states:

The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive and may be sought and employed in any combination deemed advisable by the department to enforce this chapter.

- (f) The licensing agency shall notify the appropriate placement or protective service agency if either of the following conditions exist:

- (1) There is an immediate threat to the clients' health and safety.

- (2) The facility does not submit an application for licensure within 15 calendar days of being served a notice of operation in violation of the law.

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1503.5, 1505, 1508, 1533, and 1538, 1540, 1540.1, 1541, 1547, and 1549, Health and Safety Code.



Amend Section 87018(c)(12) to read:

87018 APPLICATION FOR LICENSE (Continued)

87018

(c) The application and supporting documents shall contain the following: (Continued)

(12) Such other information as may be required pursuant to Section 1520(fg) of the Health and Safety Code.

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501, 1520, and 1531, Health and Safety Code.

Amend Section 87040 to read:

87040 DENIAL OF INITIAL LICENSE (Continued)

87040

- (a) Except as specified in Section 87030, which provides for issuance of a provisional license, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulation.

(1) The licensing agency shall have the authority to deny an application for an initial license if the applicant has filed to pay any civil penalty assessment pursuant to Section 87065 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.

(+2) (Continued)

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1520, 1525, and 1526, and 1547, Health and Safety Code.

Adopt new Section 87055 to read:

87055 UNLICENSED FACILITY PENALTIES

87055

(a) A penalty of \$200 per day shall be assessed for the operation of an unlicensed facility under either of the following conditions:

(1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of the Law pursuant to Section 87006, and continues to operate.

(A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 87018.

(B) The completed application shall be deemed to be submitted when received by the licensing agency.

(2) Unlicensed operation continues after denial of the initial application.

(A) Notwithstanding any appeal action, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(b) The \$200 per day penalty shall be assessed for the continued operation of an unlicensed facility as follows:

(1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.

(A) The \$200 per day penalty shall continue until the operator ceases operation or submits a completed application pursuant to Sections 87055(a)(1)(A) and (B).

(2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(A) The \$200 per day penalty shall continue until the operator ceases operation.

(c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation, as defined in Section 1503.5 of the Health and Safety Code has ceased, the penalty shall cease as of the day the licensing agency receives the notification.

(1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.

(2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.

(d) All penalties shall be due and payable upon receipt of the Notice for Payment from the licensing agency, and shall be paid by check or money order made payable to the agency indicated in the notice.

(e) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction to take other appropriate action for failure to pay penalties as specified in (d) above.

(f) Payment of civil penalties or application for licensure in response to a citation under this section do not permit the operation of a community care facility without a license.

(1) Section 1508 of the Health and Safety Code provides in part:

No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct or maintain a community care facility in this state, without a current valid license therefor as provided in this Chapter.

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Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference:

Sections 1503.5, 1508, 1520, 1533, 1538, 1540,  
1540.1, 1541, 1547, and 1549, Health and Safety  
Code.

Adopt new Section 87056 to read:

87056      UNLICENSED FACILITY ADMINISTRATIVE APPEAL      87056

- (a) An unlicensed facility operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.
  - (1) If the unlicensed facility operation has not ceased, the \$200 per day penalty shall continue to accrue during the appeal process.
- (b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.
- (c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1503.5, 1508, and 1547, Health and Safety Code.

Amend and renumber Section 87100(a) to read:

87100 DEFINITIONS (Continued)

87100

(a) (Continued)

(44) "Unlicensed Residential Facility for the Elderly"  
means a facility as defined in Health and Safety  
Code Section 1569.44.

(A) Health and Safety Code Section 1569.44 provides:

A facility shall be deemed to be an "unlicensed residential facility for the elderly" and "maintained and operated to provide residential care" if it is unlicensed and not exempt from licensure, and any one of the following conditions is satisfied:

(1) The facility is providing care and supervision and services, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(2) The facility is held out as, or represented as, providing care and supervision and services, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(3) The facility accepts or retains residents who demonstrate the need for care and supervision and services, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(4) The facility represents itself as a licensed residential facility for the elderly.

(B) A facility which is "providing care and supervision" as defined in Section 87100(a)(8) includes, but is not limited

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to, one in which individual has been placed by a placement agency or family members.

(C) A facility which is "held out as or represented as providing care and supervision" includes, but is not limited to:

(1) A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.

(2) A facility where change of ownership has occurred and the same clients are retained.

(3) A licensed facility that moves to a new location.

(4) A facility which advertises as providing care and supervision.

(D) A facility which "accepts or retains residents who demonstrate the need for care and supervision" includes, but is not limited to:

(1) A facility with residents requiring care and supervision, even though the facility is providing board and room only, or board only, or room only.

(2) A facility where it is apparent that care and supervision are being provided by virtue of the client's needs being met.

(445) (Continued)

(456) (Continued)

Authority Cited: Section 1530 1569.30, Health and Safety Code.

Reference: Sections 1530 1569.1, 1569.2, 1569.5, 1569.10, 1569.145, 1569.15, 1569.157, 1569.17, 1569.19,



1569.20, 1569.21, 1569.30, 1569.312, 1569.44,  
1569.47, and 1569.82, Health and Safety Code.

Amend Section 87102 to read:

87102 LICENSE REQUIRED (Continued)

87102

- (a) Pursuant to Health and Safety Code Section ~~1568~~ 1569.10, any individual or legal entity providing or intending to provide care and supervision to the elderly in a residential facility shall ~~be licensed~~ obtain a current valid license pursuant to the provisions of this chapter. This shall not require an adult residential facility to relocate a resident who becomes ~~620~~, nor to change licensing category, provided that the resident's needs remain compatible with those of other residents, and the licensing agency has approved an exception request.

Authority Cited: Section ~~1539~~ 1569.30, Health and Safety Code.

Reference: Sections ~~1502, 1503 and 1508~~ 1569.10, 1569.45,  
and 1569.44, Health and Safety Code.

Amend Section 87106 to read:

87106 OPERATION WITHOUT A LICENSE

87106

- (a) If ~~a~~An unlicensed facility is providing care and supervision as defined in Section 87100(a)(44), the facility is in violation of Section ~~4504~~ 1569.10, 1569.44, and/or 1569.45 of the Health and Safety Code unless the facility is exempted from licensure under Section 87400. If the facility is found to be in violation of Section ~~1508~~ of the Health and Safety Codes, the licensing agency shall:

- (1) Conduct a site visit and evaluation of the facility.
- (2) Issue an order to discontinue services.
- (3) Take other action as necessary, including referral for criminal prosecution and/or civil proceedings. In evaluating what other actions should be taken, the health, safety and general welfare of the residents in the unlicensed facility shall be the primary consideration.

- (b) If the facility is alleged to be in violation of Section 1569.10 and/or 1569.44 and/or 1569.45 of the Health and Safety Code, the licensing agency shall conduct a site visit and/or evaluation of the facility pursuant to Health and Safety Code Section 1569.35.

- (1) Health and Safety Code Section 1569.35(c) provides in part:

Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a residential care facility for the elderly, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the department's proposed course of action.

- (c) If the facility is operating without a license, the licensing agency shall issue a Notice of Operation in

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Violation of Law, and shall refer the case for criminal prosecution and/or civil proceedings.

- (d) The licensing agency shall issue an immediate civil penalty pursuant to Section 87310 and 1569.485 of the Health and Safety Code.

- (1) Section 1569.485 of the Health and Safety Code provides in part:

Notwithstanding any other provision of this chapter, any person who violates Section 1569.10 or 1569.44, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars (\$200) per day of violation.

The civil penalty shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the licensure application is denied and the operator continues to operate the unlicensed facility.

- (e) Sections 87105(c) and (d) shall be applied in any combination deemed appropriate by the licensing agency.

- (f) The licensing agency shall notify the appropriate local or state Ombudsman, placement, or adult protective service agency if either of the following conditions exist:

- (1) There is an immediate threat to the residents' health and safety.
- (2) The facility does not submit an application for licensure within 15 calendar days of being served a Notice of Operation in violation of Law.

Authority Cited: Section ~~1530~~ 1569.30, Health and Safety Code.

Reference: Sections ~~1508, 1540 and 1541~~ 1569.10, 1569.19, 1569.335, 1569.35, 1569.40, 1569.41, 1569.42, 1569.43, 1569.44, 1569.45, 1569.47, 1569.485, and 1569.495, Health and Safety Code.

Adopt new Section 87310 to read:

87310 UNLICENSED FACILITY PENALTIES

87310

(a) A penalty or \$200 per day shall be assessed for the operation of an unlicensed facility under either of the following conditions:

(1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of Law pursuant to Section 87016.

(A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 87402.

(B) The completed application shall be deemed to be submitted when received by the licensing agency.

(2) Unlicensed operation continues after denial of the initial application.

(A) Notwithstanding any appeal action facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(b) The \$200 per day penalty shall be assessed for the continued operation of an unlicensed facility as follows:

(1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.

The \$200 per day penalty shall continue until the operator ceases operation, or submits a completed application pursuant to Sections 87310(a)(1)(A) and (8).

(2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(A) The \$200 per day penalty shall continue until the operator ceases operation.

(c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation, as defined in 1569.44 of the Health and Safety Code, has ceased, the penalty shall cease as of the day the licensing agency receives the notification.

(1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.

(2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.

(d) All penalties shall be due and payable upon receipt of the Notice of Payment from the licensing agency, and shall be paid by check or money order made payable to the agency indicated in the notice.

(e) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.

(f) Payment of civil penalties or application for licensure in response to a citation under this section do not permit the operation of a residential facility for the elderly without a license.

(1) Section 1569.10 of the Health and Safety Code provides in part:

No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct or maintain a residential facility for the elderly in this state, without first obtaining and maintaining a valid license therefor as provided in this Chapter.

Authority Cited: Section 1569.30, Health and Safety Code.

Reference:

Sections 1569.3, 1569.10, 1569.11, 1569.14,  
1569.145, 1569.15, 1569.17, 1569.20, 1569.21,  
1569.22, 1569.312, 1569.35, 1569.44, 1569.45,  
1569.485, and 1569.495, Health and Safety Code.

Adopt new Section 87311 to read:

87311      UNLICENSED FACILITY ADMINISTRATIVE APPEAL      87311

- (a) An unlicensed operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.
  - (1) If the unlicensed facility operation has not ceased, the \$200 per day penalty shall continue to accrue during the appeal process.
- (b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.
- (c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

Authority Cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.10, 1569.44, 1569.45, and 1569.485, Health and Safety Code.



Amend Section 87414 to read:

87414 DENIAL OF INITIAL LICENSE (Continued)

87414

(a) (Continued)

(b) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section 87310 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.

(~~b~~c) (Continued)

(~~e~~d) (Continued)

(~~H~~e) (Continued)

(~~e~~f) (Continued)

Authority Cited: Section ~~1530~~ 1569.30, Health and Safety Code.

Reference: Sections ~~1520, 1520.3, 1525, 1526, 1551, and 1553~~ 1569.15, 1569.20, 1569.22, 1569.485, and 1569.49, Health and Safety Code.

# OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

FILED

In this office of the Secretary of State  
of the State of California

AUG 17 1988

At 3:50 o'clock P.M.

MARCH FONG EU, Secretary of State

By Arthur Bates  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-0718-03

  
LINDA STOCKDALE BREWER  
DIRECTOR

8/17/88  
Date

88-0718-02

(See Instructions on Reverse)

RDB 0387-10

FACE SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 7/15/88

For use of Office of Adm Law

For use by Secretary of State only

FILED

In this office of the Secretary of State  
of the State of California

AUG 17 1988

At 3:50 o'clock P.M.

MARCH FONG EU, Secretary of State

By [Signature]  
Deputy Secretary of State

APPROVED FOR FILING

AUG 17 1988

Office of Administrative Law

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie, Clark, Chief Regulations Development Bureau 445-0313

2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

SECTIONS ADOPTED:  
Title 22 101209, 101210, 102402 and 102403

SECTIONS AMENDED:  
101157, 101191, 102357 and 102391

SECTIONS REPEALED:

- b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other \_\_\_\_\_ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER	b. DATE OF FINAL AGENCY ACTION	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
July 31, 1987	July 18, 1988	N/A

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☒ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective upon filing with the Secretary of State.
- c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_
- d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on \_\_\_\_\_ (Designate effective date *later than* the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
- b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
- c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
- b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
- c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
- d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
- e. If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director

Amend Section 101157 to read:

101157 OPERATION WITHOUT A LICENSE (Continued)

101157

(c) If the facility is operating without a license, the licensing agency shall issue a ~~Notice of~~ Operation in ~~violation of~~ Law and shall refer the case for criminal prosecution and/or civil proceedings.

(d) The licensing agency shall have the authority to issue an immediate civil penalty pursuant to Section 101209 and Section 1596.891 of the Health and Safety Code.

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Health and Safety Code Section 1596.891 states in part:

(a) A person who violates Section 1596.80 may be liable for an immediate assessment of civil penalties in the amount of two hundred dollars (\$200) per day.

(b) The penalty specified in subdivision (a) shall be imposed if the operator of an unlicensed facility refuses to seek licensure or the operator seeks licensure and is denied but continues to operate.

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(e) Sections 101157(c) and (d) shall be applied pursuant to Section 1596.892 of the Health and Safety Code.

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Health and Safety Code Section 1596.892 states:

The civil, criminal, and administrative remedies available to the Department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the Department to enforce the provisions of this chapter.

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Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.792, 1596.80, 1596.81(b), 1596.89 and, 1596.890, 1596.891 and 1596.892, Health and Safety Code.

Amend Section 101191 to read:

101191 DENIAL OF INITIAL LICENSE (Continued)

101191

(a) (Continued)

- (1) The licensing agency shall have the authority to deny an application for initial license, if the applicant has failed to pay any civil penalty assessments pursuant to Section 101209 and in accordance with a final judgement issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.

(~~1~~2) (Continued)

Authority Cited: Section ~~1597.11~~ 1596.81, Health and Safety Code.

Reference: Sections 1596.81, 1596.856, 1596.891, 1596.95, and 1597.05, Health and Safety Code, and 15374 and 15376, Government Code.

Adopt Section 101209 to read:

101209 UNLICENSED FACILITY PENALTIES

101209

(a) A penalty of \$200 per day shall be assessed for the operation of an unlicensed facility under either of the following conditions:

(1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of a Notice of Operation in Violation of Law pursuant to Section 101157, and continues to operate.

(A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 101169.

(B) The completed application shall be deemed to be submitted when received by the licensing agency.

(2) Unlicensed operation continues after denial of the initial application.

(A) Notwithstanding any appeal action, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(b) The \$200 per day penalty shall be assessed for the continued operation of an unlicensed facility as follows:

(1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.

(A) The \$200 per day penalty shall continue until the operator ceases operation or submits a completed application pursuant to Section 101209(a)(1)(A) and (B).

(2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(A) The \$200 per day penalty shall continue until the operator ceases operation.



(c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation has ceased, the penalty shall cease as of the day the licensing agency receives the notification.

(1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.

(2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.

(d) All penalties shall be due and payable upon receipt of the Notice for Payment from the licensing agency, and shall be paid by check or money order made payable to the agency indicated in the notice.

(e) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.

(f) Payment of civil penalties or application for licensure in response to a citation under this section do not permit the operation of a child day care facility without a license.

Health and Safety Code 1596.80 states:

No person, firm, partnership, association, or corporation shall operate, establish, manage, conduct, or maintain a child day care facility in this state without a current valid license therefor as provided in this act.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.80, 1596.891 and 1596.892, Health and Safety Code.

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Adopt Section 101210 to read:

101210 UNLICENSED FACILITY ADMINISTRATIVE APPEAL 101210

- (a) An unlicensed facility operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.
  - (1) If the unlicensed facility operation has not ceased, the \$200 per day penalty shall continue to accrue during the appeal process.
- (b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.
- (c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.80, 1596.891, and 1596.893, Health and Safety Code.

Amend Section 102357 to read:

102357 OPERATION WITHOUT A LICENSE (Continued)

102357

(a) (Continued)

(b) The licensing agency shall have the authority to issue an immediate civil penalty pursuant to Section 102402 and Section 1596.891 of the Health and Safety Code.

Health and Safety Code Section 1596.891 provides in part:

- (a) A person who violates Section 1596.80 may be liable for an immediate assessment of civil penalties in the amount of two hundred dollars (\$200) per day.
- (b) The penalty specified in subdivision (a) shall be imposed if the operator of an unlicensed facility refuses to seek licensure or the operator seeks licensure and is denied but continues to operate.

(c) Section 102357 shall be applied pursuant to Section 1596.892 of the Health and Safety Code.

Health and Safety Code Section 1596.892 states:

The civil, criminal, and administrative remedies available to the Department pursuant to this article are not exclusive and may be sought and employed in any combination deemed advisable by the Department to enforce the provisions of this chapter.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.80, 1596.81(b), 1596.890, 1596.891, 1596.892, and 1597.61, Health and Safety Code.

Amend Section 102391 to read:

102391 DENIAL OF A LICENSE (Continued)

102391

(a) (Continued)

(b) The licensing agency shall have the authority to deny an application for initial license, if the applicant has failed to pay any civil penalty assessments pursuant to Section 102402, and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.

(~~b~~c) (Continued)

(~~e~~d) (Continued)

(~~d~~e) (Continued)

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.81(b), 1596.856, 1596.891, and 1597.59, Health and Safety Code.

Adopt Section 102402 to read:

Article 5. Enforcement Provisions ~~(Reserved)~~

102402 UNLICENSED FACILITY PENALTIES

102402

(a) A penalty of \$200 per day shall be assessed for the operation of an unlicensed facility under either of the following conditions:

(1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of a Notice of Operation in Violation of Law pursuant to Section 102357 and continues to operate.

(A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 102369.

(B) The completed application shall be deemed to be submitted when received by the licensing agency.

(2) Unlicensed operation continues after denial of the initial application.

(A) Notwithstanding any appeal action, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(b) The \$200 per day penalty shall be assessed for the continued operation of an unlicensed facility as follows:

(1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.

(A) The \$200 per day penalty shall continue until the operator ceases operation or submits a completed application pursuant to Section 102402(a)(1)(A) and (B).

(2) Within 10 calendar of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(A) The \$200 per day penalty shall continue until the operator ceases operation.

(c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation has ceased, the penalty shall cease as of the day the licensing agency receives the notification.

(1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.

(2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.

(d) All penalties shall be due and payable upon receipt of the Notice for Payment from the licensing agency, and shall be paid only by check or money order made payable to the agency indicated in the notice.

(e) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.

(f) Payment of civil penalties or application for licensure in response to a citation under this section do not permit the operation of a family day care facility without a license.

Health and Safety Code Section 1596.80 states:

No person, firm, partnership, association, or corporation shall operate, establish, manage, conduct, or maintain a child day care facility in this state without a current valid license therefor as provided in this act.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.80, 1596.891, and 1596.892, Health and Safety Code.

Adopt Section 102403 to read:

102403 UNLICENSED FACILITY ADMINISTRATIVE APPEAL

102403

- (a) An unlicensed facility operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.
- (1) If the unlicensed facility operation has not ceased, the \$200 per day penalty shall continue to accrue during the appeal process.
- (b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.
- (c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.80, 1596.891, and 1596.893, Health and Safety Code.

# OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

**FILED**

In this office of the Secretary of State  
of the State of California

AUG 17 1988

At 3:50 o'clock P M.

MARCH FONG EU, Secretary of State

By [Signature]  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

**Submitting Agency:** Department of Social Services

**DAL File No:** 88-0718-02

[Signature]  
f1 LINDA STOCKDALE BREWER  
DIRECTOR

8/17/88  
Date



FACE SHEET

(See Instructions on Reverse)

RDB #0788-28

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached  
are true and correct copies of regulations  
adopted, amended or repealed by this agency  
and that the information specified on this Face  
Sheet is true and correct.

FILED

In this office of the Secretary of State  
of the State of California

AUG 19 1988

At 3:45 o'clock P. M.

MARCH FONG EU, Secretary of State

By Andrea W. Wynn

Deputy Secretary of State

1988 AUG 19  
OFFICE OF  
ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING

AUG 19 1988

Office of Administrative Law

Department of Social Services

(AGENCY)

L. L. S. McLaughlin

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 8-2-88

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE  
Rosalie Clark, Chief, Regulations Development Bureau 445-0313

2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)  
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)  
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

SECTIONS AMENDED:

42-803

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

☐ prior to the emergency adoption  
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

☐ Fair Political Practices Commission (Include FPCC approval stamp) ☐ Building Standards Commission (Attach approval)  
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)  
☐ Other \_\_\_\_\_ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER Not Applicable	b. DATE OF FINAL AGENCY ACTION AUG 2 1988	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) Not Applicable
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9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. ☐ Effective 30th day after filing with the Secretary of State.  
b. ☒ Effective upon filing with the Secretary of State.  
c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s):  
d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.  
e. ☐ Effective on \_\_\_\_\_ (Designate effective date *later than* the normal effective date for the type of order filed.)

## INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
  - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
  - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
  - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
  - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
  - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
  - If an effective date later than specified above is requested, provide the date.

### FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in dark ink, appearing to read "Linda S. McMahon". The signature is fluid and cursive, with a long horizontal stroke at the end.

LINDA S. McMAHON  
Director

Amend Section 42-803 to read:

42-803 BASIC PARTICIPANT CONTRACT REQUIREMENTS FOR RCA 42-803  
GAIN PARTICIPANTS

- \*1 Contract requirements in Sections 42-772.1, 42-772.2, 42-772.3 and 42-772.5 shall not apply to RCA GAIN participants.
- \*21 Self-initiated plans are allowable; however, an educational plan which includes full-time attendance in an institution of higher education, as defined in Section 69-206.5, shall not be allowed except as defined in Sections 69-206.52 or .53.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11320.2, Welfare and Institutions Code.

# OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

**FILED**

In this office of the Secretary of State  
of the State of California

AUG 19 1988

At 3:45 o'clock P. M.

MARCH FONG EU, Secretary of State

By Andrea Waymire  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-0816-02 E

  
for **LINDA STOCKDALE BREWER**  
**DIRECTOR**

8/19/88  
Date

FACE SHEET

88-0728-02  
RDB# 0587-19  
(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE OFFICE OF ADMINISTRATIVE LAW  
REGULATION. I hereby certify that the attached  
are true and correct copies of regulations  
adopted, amended or repealed by this agency  
and that the information specified on this Face  
Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)  
*Jul S. Mahab*  
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 7/22/88

FILED

In this office of the Secretary of State  
of the State of California

AUG 29 1988  
4:28 P.M.  
MARCH FONG EU, Secretary of State  
By *[Signature]*  
Deputy Secretary of State

1988 JUL 20 PM 2 22

OFFICE OF  
ADMINISTRATIVE LAW  
ENDORSED  
APPROVED FOR FILING  
AUG 29 1988

Office of Administrative Law

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING  
(See instructions)  
Rosalie Clark, Chief Regulations Development Bureau 445-0313
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance  
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)  
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:  
Title MPP  
SECTIONS ADOPTED:  
SECTIONS AMENDED:  
40-125.9, 40-181.2, 43-201.216  
SECTIONS REPEALED:  
b. The following sections listed in 3a contain modifications to the text originally made available to the public: N/A
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)  
☐ prior to the emergency adoption  
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?  
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: \_\_\_\_\_
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?  
☒ No ☐ Yes, if yes, give date statement was submitted to OAL \_\_\_\_\_
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)  
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)  
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)  
☐ Other \_\_\_\_\_ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER  
October 2, 1987  
b. DATE OF FINAL AGENCY ACTION  
7/28/88  
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))  
N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)  
a. ☐ Effective 30th day after filing with the Secretary of State.  
b. ☐ Effective upon filing with the Secretary of State.  
c. ☐ Effective on \_\_\_\_\_ as required or allowed by the following statute(s): \_\_\_\_\_  
d. ☐ Effective on \_\_\_\_\_ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)  
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.  
e. ☒ Effective on 10/1/88 (Designate effective date *later than* the normal effective date for the type of order filed.)

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DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "L. S. McMahon".

LINDA S. McMAHON  
Director



Amend MPP Section 40-125.9 to read:

40-125      PROCESSING APPLICATIONS, REAPPLICATIONS, AND      40-125  
RESTORATIONS (Continued)

.9 Request for Restoration of Aid (Continued)

When a county receives a request for restoration of aid, all provisions of Section 40-100 shall apply except those as modified by ~~.91~~ and ~~.92~~ below. (Continued)

.93    If a former recipient of aid requests restoration within the calendar month following the effective date of discontinuance, the county shall not require him/her to furnish any documentation previously provided to the county except under the following conditions:

.931    The documentation is missing from the case record and

.932    The documentation affects eligibility or amount of aid for the month of restoration.

.94    Restorations in the Calendar Month Following a CA 7 Related Discontinuance

a.    When a recipient who has been discontinued for failure to submit a complete CA 7 requests restoration of AFDC during the calendar month following discontinuance, but after the first working day, the CWD shall determine if the recipient had good cause (Section 40-181.23) for failure to submit a complete report.

b.    If the recipient had good cause for failure to submit a complete report, the discontinuance action shall be rescinded, eligibility redetermined and the grant amount computed based on information contained in the complete CA 7 submitted by the recipient.

c.    The penalties for late reporting of earnings contained in Section 44-111.323(c) shall be applied unless good cause can also be established for failure to submit a timely report of earnings.

d.    If the recipient is not found to have good cause, the CWD shall redetermine eligibility in

accordance with Sections 40-125.91 and .92  
(Requests for Restorations of Aid).

Authority Cited: Welfare and Institutions Code Sections 10553  
and 10554.

Reference: Welfare and Institutions Code Sections 10553,  
10554, and 11051; Pre-emptory Writ of Mandate,  
dated January 5<sup>th</sup>, 1987, in the Balderas v.  
McMahon court case, Los Angeles County Superior  
Court No. CA 000627.

40-181 CONTINUING ACTIVITIES AND DETERMINATION OF ELIGIBILITY (Continued)

• 2 Periodic Determination of Eligibility (Continued)

• 22 AFDC recipients other than AFDC-FC shall, in addition to the annual completion of the CA 2, complete and return the CA 7 to the County Welfare Department (CWD) by the 5th calendar day of each report month but not before the first calendar day of that month. CA 7s not received by the 11th of the month shall be considered late.

When the CWD has not received the complete CA 7 by the 11th calendar day of the report month (see Section 40-181.24) the CWD shall send or give the recipient the appropriate discontinuance notice to be mailed no later than 10 calendar days prior to the end of the report month.

When a complete CA 7 has not been received, the CWD shall attempt to make a personal contact to or with the family no later than the sixth day prior to the end of the report month. The personal contact requirement may be satisfied by a telephone call or a reminder notice in the event the recipient is not reachable by telephone. The personal contact requirement is also satisfied by a home visit or a face-to-face meeting at the county welfare office. The personal contact must occur within the recipient at least five days to respond prior to the effective date of the discontinuance. However, if on or before the first calendar day of the payment month the recipient provides the CWD with the complete CA 7, the discontinuance action shall be rescinded, eligibility shall be determined, and the CWD shall process the resulting payment in accordance with Sections 44-305.22(a) or 44-305.22(b) upon request by the recipient as defined in 231 below. The CWD shall determine whether the recipient had good cause for failure to submit a timely report of earnings (see Section 40-191.23 regarding Good Cause). Also see Sections 40-105, 44-103.21 and 22-022.2(f).

• 221 Late CA 7s

a. When the CA 7 is not received by the eleventh day of the report month or the CA 7 is received but is not complete in

accordance with the completeness criteria specified in Section 40-181.241, the CWD shall send the appropriate discontinuance notice.

b. When a CA 7 has not been received at the CWD after the notice of discontinuance has been sent, the CWD shall attempt to make a personal contact with the recipient either by telephone or in a face-to-face meeting. During the personal contact the CWD shall remind the recipient that a complete CA 7 must be received by the CWD no later than the first working day of the payment month.

(1) When the recipient cannot be personally contacted, a written reminder notice, which shall include language specified by SOS, shall be mailed no later than five days prior to the last calendar day of the report month. Under no circumstances shall the reminder notice be mailed in the same envelope as the discontinuance notice required in Section 40-181.221(a).

c. The CWD shall document in the case file how and when the contact was attempted or made.

d. If the recipient contacts the welfare office on the first working day of the payment month to report nonreceipt of his or her warrant, the CWD shall inform the recipient of a pending discontinuance due to nonreceipt of a complete CA 7 and shall inform him/her that the discontinuance will be rescinded if a complete CA 7 is received by the end of that day.

e. The CWD shall not take action to notify the Child Support Enforcement Unit of the District Attorney's Office of any affected employment or training program of a CA 7 related discontinuance until after the first working day of the payment month.

.222 Processing Late CA 7s

a. If a complete CA 7 is received after the eleventh but on or before the first working day of the payment month, the CWD shall:

(1) Rescind the discontinuance action; and

(2) Determine eligibility based on the information reported on the CA 7; and

(3) Impose the penalties for failure to submit a timely report of earnings required in Section 44-113.218.

b. Upon the request of the recipient, the CWD shall determine whether the recipient had good cause for failure to submit a timely report of earnings in accordance with Section 40-181.23.

.2213 (Continued)

.23 Good Cause Determination for Failure to Submit a Complete CA 7 Timely (Continued)

.231 A good cause exemption shall only be granted if the request is made by the parent, other caretaker relative, or an authorized representative, unless a good cause determination is required in accordance with Section 40-125.94 (Requests for Restoration in the Calendar Month Following a CA 7 Discontinuance). (Continued)

Authority Cited: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553 and 10554, Pre-emptory Writ of Mandate, dated January 5, 1987, in the case of Balderas v. McMahon, Los Angeles County Superior Court No. CA 000627.

Amend Section 43-201.216 to read:

43-201 CHILD AND SPOUSAL SUPPORT AND PATERNITY,  
(Continued)

43-201

•2 Ongoing Child and Spousal Support Activities (Continued)

•21 (Continued)

•216 Aid to the family has been otherwise discontinued.  
(See Section 40-181.221(a) for specific procedures  
and time frames for CA 7 related discontinuances).

Authority Cited: Welfare and Institutions Code Sections 10553  
and 10554.

Reference: Welfare and Institutions Code Sections 10553,  
10554, and 11051; Pre-emptory Writ of Mandate,  
dated January 5, 1987, in the case of Balderas  
v. McMahon, Los Angeles County Superior Court  
No. CA 000627.

FILED

In this office of the Secretary of State  
of the State of California

AUG 29 1988

At \_\_\_\_\_ o'clock \_\_\_\_\_  
MARCH FONG EU, Secretary of State  
By \_\_\_\_\_  
Deputy Secretary of State

# OFFICE OF ADMINISTRATIVE CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-0728-02

  
for LINDA STOCKDALE BREWER  
DIRECTOR

8/19/88  
Date